

CITY OF BURLINGTON CONSULTANT CONTRACT

This Consultant Contract (“Contract”) is entered into by and between the City of Burlington, Vermont (“the City”), and CNA Corporation (“Consultant”), a Virginia Non-Profit corporation located at 3003 Washington Boulevard, Arlington, VA 22201.

Consultant and the City agree to the terms and conditions of this Contract.

1. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “Contract Documents”** means all the documents identified in Section 4 (Scope of Work) of this Contract.
- B. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- C. “Party”** means the City or Consultant, and “Parties” means the City and Consultant.
- D. “Project”** means the Consultant’s work as described in the City’s Request for Proposals dated November 10, 2020.
- E. “Work”** means the services described in Section 5 (Payment for Services) of this Contract, along with the specifications contained in the Contract Documents as defined in Section 4 (Scope of Work) below.

2. RECITALS

- A. Authority.** Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.
- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.
- C. Purpose.** The City seeks to employ the Consultant to assist the Public Safety and Police Commission Joint Committee in examining and reevaluating public safety needs in Burlington and reassessing the role of BPD in promoting public safety in Burlington.

3. EFFECTIVE DATE, TERM, AND TERMINATION

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Consultant for any performance or

expense incurred before the Effective Date or after the expiration or termination of this Contract.

B. Term. This Contract and the Parties' respective performance shall commence on the Effective Date and expire on June 30, 2021, or upon the satisfaction of the City, unless sooner terminated as provided herein. Performance of the contract by the expiration date requires timely delivery of analyzable data to the Consultant. The Consultant shall inform the City of any delays that may occur based on data provided by the City and request a revision to the expiration date if necessary. Data requests for policy, administrative data, and interview availability are facilitated/provided promptly (i.e., no more than a one-week turnaround for documents, no more than a two-week turnaround for administrative data, and no more than a two-week turnaround from interview request to scheduling).

4. SCOPE OF WORK

The Consultant shall perform the services listed in Attachments A (Request for Proposals) and B (Consultant's Response to Request for Proposals). Changes of staff may be made as long as the City is notified and does not increase the Maximum Limiting Amount in section 5.C.

5. PAYMENT FOR SERVICES

A. Amount. The City shall pay the Consultant for completion of the Work in accordance with Attachment B (Consultant's Response to Request for Proposals).

Consultant agrees to accept this payment as full compensation for performance of all services and expenses incurred under this Agreement.

B. Payment Schedule. The City shall pay the Consultant in the manner and at such times as set forth in the Contract Documents. The City seeks to make payment within thirty days of receipt of an invoice and any backup documentation requested under subsection D (Invoice) below.

C. Maximum Limiting Amount. The total amount that may be paid to the Consultant for all services and expenses under this Contract shall not exceed the maximum limiting amount of \$99,524.96. The City shall not be liable to Consultant for any amount exceeding the maximum limiting amount without duly authorized written approval.

D. Invoice. Consultant shall submit one copy of each invoice, including rates and a detailed breakdown by task for each individual providing services, and backup documentation for any equipment or other expenses to the following:

Kyle Dodson
Director of Police Transformation
KDodson@bpdvt.org
(802) 598-8405

The City reserves the right to request supplemental information prior to payment. Consultant shall not be entitled to payment under this Contract without providing sufficient backup documentation satisfactory to the City.

6. SECTION & ATTACHMENT HEADINGS

The article and attachment headings throughout this Contract are for the convenience of City and Consultant and are not intended nor shall they be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

7. CONTRACT DOCUMENTS & ORDER OF PRECEDENT

A. Contract Documents. The Contract Documents are hereby adopted, incorporated by reference, and made part of this Contract. The intention of the Contract Documents is to establish the necessary terms, conditions, labor, materials, equipment, and other items necessary for the proper execution and completion of the Work to ensure the intended results.

The following documents constitute the Contract Documents:

Attachment A: Request for Proposals dated November 10, 2020

Attachment B: Consultant's Response to Request for Proposals dated December 15, 2020

Attachment C: Burlington Standard Contract Conditions for Consultants

Attachment D: Burlington Livable Wage Ordinance Certification

Attachment E: Burlington Outsourcing Ordinance Certification

Attachment F: Burlington Union Deterrence Ordinance Certification

Attachment G: Consultant's Certificate of Insurance

B. Order of Precedent. To the extent a conflict or inconsistency exists between the Contract Documents, or provisions therein, then the Contract take precedent. Any Invitation for Bids, Additional Contract Provisions, and the City Ordinance Certifications shall prevail over any inconsistency with the Contractor's Scope of Work and Cost Proposal.

8. [Reserved]

— Signatures follow on the next page —

SIGNATURE

Persons signing for the Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

**Consultant
CNA Corporation**

By: 

Date: 3/15/2021

City of Burlington



Miro Weinberger
Mayor

Date: 3/15/2021

**CITY OF BURLINGTON
REQUEST FOR PROPOSALS**

BPD ASSESSMENT

Issued: November 10, 2020

Responses Due: December 15, 2020 @ 6:00pm EST.

I. EXECUTIVE SUMMARY

The City of Burlington, Vermont, seeks to examine and reevaluate how to build a healthy and safe community, including reimagining public safety so that police are no longer automatically deployed to the wide range of calls for service to which they currently respond, placing the ground work and infrastructure for a fundamental culture shift, and restructuring how police interact with BIPOC and other vulnerable communities. This examination and reevaluation hinges on a full operational and functional assessment of the Burlington Police Department (BPD) as compared to the City's public safety needs. The assessment will analyze who, what, where, and how the BPD polices. It will also explore whether new or augmented institutions are needed to supplement or replace police services, evaluating the benefits of such changes and any potential barriers to those changes.

This examination and reevaluation is being conducted by a "Joint Committee" that is comprised of the Burlington City Council's Public Safety Committee and the City of Burlington's seven-member Police Commission. The Joint Committee's first meeting was held on Thursday, August 13, 2020. Its mandate is to answer the questions: 1) What types and level of services does the Burlington community desire in terms of public safety and well-being? and 2) How does this compare with who, what, where, and how the Burlington Police Department is providing those services, including whether any services currently provided by the BPD can more effectively be provide by other agencies?

The City of Burlington seeks to hire a consultant/consultants to work with the Joint Committee and guide the examination and reevaluation of the second question. The ideal candidate will have experience working with local governments and diverse community members while creating sustainable institutional change supported by data and research. The consultant(s) should have a demonstrated history of helping agencies and communities achieve public safety and quality of

life improvements in a manner that is equitable, non-discriminatory, and respectful of community values. Ideally, the consultant(s) would also have a demonstrated history of reviewing criminal justice policies and practices for transparency, ethics, and effectiveness, and movement away from systemic racism. The end goal is a roadmap that supports a methodical transition to a new, innovative public safety apparatus that delivers valued community services, whether police services or other services.

II. BACKGROUND

Following the killing of George Floyd in Minneapolis, Minnesota, many communities around the nation experienced demands for racial justice and a reckoning with the role of police in public safety. Burlington, Vermont, was no exception. In addition to protests and rallies, the month of June was marked by a significant campaign of organized activism (see Attachment D). During the City Council's consideration of the Mayor's FY21 proposed budget, hundreds of people joined online public City Council meetings and called for the BPD's staffing to be reduced by 30%, reflecting the view that many services currently provided by BPD could be better and more safely provided by other entities, thus reducing reliance on law enforcement for public safety. Ultimately, the City Council adopted the Mayor's budget but also passed a "Resolution Relating to Racial Justice Through Economic and Criminal Justice" (see Attachment A).

The Resolution. The Resolution was far ranging, but with regard to examining and reevaluating the BPD, four relevant, significant sections were:

1. BE IT FURTHER RESOLVED that the Burlington Police Department decrease through attrition the maximum total number of uniformed police officers by 30% from 105 to 74 uniformed officers.
2. BE IT FURTHER RESOLVED that the general fund dollars freed up by reducing the number of uniformed officers shall be used to reduce the demand for police services through a variety of social services, as well as social justice, racial justice, and economic justice initiatives, including a community-based cultural empowerment center, a minority-owned business municipal procurement program, and a capital access program, as well as operational capacity for the Racial Equity, Inclusion and Belonging function as a City Office with at least one staff person in addition to the director and funding for a baseline assessment.
3. BE IT FURTHER RESOLVED that a joint committee of the City Council Public Safety Committee and Police Commission begin an inquiry by July 15 into the question of how to build a healthy and safe community and what institutions we

need to reach that goal, and that this inquiry include a full operational and functional assessment of the Burlington Police Department that analyzes who, what, where, and how the department polices and includes a review and analysis of the assessment with full community participation and input, followed by the implementation of a methodical transition to a public safety apparatus that delivers services aligned with the values and vision of the community with a report to the full Council by the first Council meeting in October 2020.

4. BE IT FURTHER RESOLVED that the above assessment should include rigorous public process and input and include local groups such as the Racial Justice Alliance, Howard Center, Boys and Girls Club, Anew Place, Spectrum Youth and Family Services and others, and the Burlington Police Department.

The Joint Committee. The “Joint Committee” is composed of the Burlington City Council’s Public Safety Committee and the City of Burlington’s seven-member Police Commission. Other stakeholders include important local entities such as the Racial Justice Alliance, the Howard Center, the Boys and Girls Club, Anew Place, Spectrum Youth and Family Services, and the BPD.

1. The Burlington City Council is composed of twelve directly elected officials representing eight Wards and four districts of the City of Burlington. Three of those twelve officials comprise the Public Safety Committee.
2. The Police Commission is composed of seven residents of Burlington, appointed by the City Council. The Burlington Police Commission is a liaison among the BPD, the Mayor, and the City Council. It holds monthly public meetings in which it hears a Chief’s report, conducts an open public forum, and maintains an agenda dedicated to ongoing issues of public concern relating to the BPD. The Police Commission has a deliberative role and offers input into disciplinary matters, strategic decision making, data transparency and communications, and the development and promulgation of new Department Directives. The Commission is established under City charter.

III. ATTACHMENTS:

Attachment A. *Resolution Relating to Racial Justice Through Economic and Criminal Justice*

Attachment B. City of Burlington Draft Agreement

Attachment C. City of Burlington Standard Consultant Conditions

Attachment D. Timeline

Attachment E. BPD Overview: staffing, call types, call volume

Attachment F. 2019 Traffic Report

Attachment G. 2019 Arrest Report

Attachment H. 2018 UOF Report

Attachment I. Seguino, Brooks, and Autilio. 2020. "Trends in Racial Disparities in Burlington Traffic Stops: Burlington, Vermont 2012-19

Attachment J. Community Visioning RFP

Attachment K. Burlington Livable Wage, Outsourcing, and Union Deterrence Ordinances and Certifications.

IV. SCOPE OF WORK

The City of Burlington seeks an experienced consultant to help guide the Joint Committee in examining and reevaluating public safety needs in Burlington and reassessing the role of BPD in promoting public safety in Burlington.

This will include a review of current practices and a comparison of the status quo (see Attachment E) with the community vision (see Community Visioning RFP, Attachment J), analyzing call volume and breakdowns, interviewing relevant community members and BPD staff, and providing an analysis to the Joint Committee to support its decision-making and, by extension, the City Council's and the Mayor's. The selected consultant will be expected to use the outputs of the Community Visioning process, but may need to collect additional and specific input from individuals in the community, local public safety and quality of life service providers, and individual BPD officers and staff.

What and How: call volume, workload, and alternatives. The consultant will analyze Burlington's current public safety call volume and workload. The selected consultant will scrutinize the degree to which public safety and quality of life work falls on police, and the degree to which this work may be shared by other entities (and the benefits and barriers to doing so). (The Joint Committee has engaged a consultant to engage the community in developing a vision and articulation of its values on public safety and quality of life. The consultant for this RFP will use those findings as a basis to evaluate the need for police services and those from other entities. See Attachment J for scope of Community Visioning RFP.) The Joint Committee recognizes that there are few examples of cities that have undertaken this type of assessment or change in the role of policing and, therefore, the consultant should be skilled at reimagining/redefining a new vision for public safety.

The selected consultant will help the Joint Committee examine alternatives to policing in order to meet community demands and promote shared values in relation to public safety. Specifically, there may be other services that are more effective or rooted in community values than policing for certain non-criminal calls for service, or even certain crimes. What are the barriers and benefits of completely separate functions and of coordination? Examples of alternative service providers are:

1. “Community liaisons” – social workers trained in non-violent conflict resolution. It is possible these mediators might be recruited and selected for their ties to specific Burlington cultural, ethnic, or racial groups, as well. Depending on the research resulting from this RFP, mediators might address noise complaints, neighbor disputes, welfare checks, and intoxication calls.
2. “Traffic agents” – unarmed report-takers for traffic calls and vehicle crashes in which there is no injury and no concern about unlawful driver conduct.
3. “Crisis responders” – social workers with mental health credentials to address homelessness, substance misuse issues, and mental illness.

Who: racial and socio-economic bias. The consultant will examine racial, socio-economic, and mental health bias in who is being policed and who has access to current quality of life services. The consultant will offer recommendations for changes in practices and policies to reduce racial and socioeconomic bias in policing and access to services. To carry out this task, the consultant will review relevant data to determine racial and socioeconomic disparities in policing and public safety; taking into account, when possible, the race and/or ethnicity of those who have interactions with the police and the number of police interactions with people with mental-health or substance use disorder issues and with those experiencing homelessness.

Where: racial and socioeconomic bias. The consultant will examine systemic racial and economic bias in what areas are being policed and who has access to quality of life services and offer recommendations for reducing statistical differences. This will include examining over-policing in black and brown or economically disadvantaged areas and how to minimize the over-policing and other policing. The consultant will examine patrol routes (including the number of personnel in each ward or subsections of the same), officer training, and the distribution of labor (including scheduling and an account of all positions—officer, administrative, or otherwise), along with the reasoning behind each.

End goal. The Joint Committee has the following goals:

1. Develop a recommended list of Burlington Police Department services.
2. Develop a recommendation on policing alternatives to implement.
3. Develop a recommendation for models to identify appropriate staffing levels.
4. Create a transition plan for handing off next steps to community stakeholders and City staff.

The selected consultant should be able to help the Joint Committee achieve these goals, by:

1. Providing a recommended menu of City services to add or enhance/to reduce or remove.
2. Providing an analysis of the benefits of and barriers to policing alternatives.
3. Providing a framework for decision-making on the menu of services and options for delivery within and outside of the police department.

The selected consultant should be able to help the Joint Committee achieve its end goal, which is a roadmap that supports a methodical transition to a new, innovative public safety apparatus that delivers valued community services, whether police services or other services.

Possible guidance and support formats. There are several support systems:

1. The Joint Committee. Using the existing structure of the Joint Committee, a consultant can ensure that data is properly gathered, examined, and interpreted to bolster or amend the determinations made by the City Council through the *Resolution Relating to Racial Justice Through Economic and Criminal Justice*.
2. The Director of Police Transformation. Burlington recently hired a temporary (6-month) Director of Police Transformation. This full-time position is embedded in the Burlington Police Department and can help procure necessary information.
3. CommSTAT. The City of Burlington pioneered a multi-party process for addressing the opioid epidemic called “CommunitySTAT” or CommSTAT. This model was remarkably successful and is familiar to Burlington stakeholders, many of whom are also participants in the “full operational and functional assessment” described by the *Resolution Relating to Racial Justice Through Economic and Criminal Justice*. A consultant capable of learning about and leading a CommSTAT-esque process to conduct an operational and functional assessment of the police would be a strong candidate.
4. Consultant proposal. Additional formats for guiding the process may be proposed at the discretion of the candidate.

Supervision and Key Dates for Deliverables. The consultant will provide monthly public written (PPT) and verbal updates at a Joint Committee meeting.

V. CONSULTANT PREREQUISITES

The selected candidate will have experience working with elected officials and engaged community members. It is essential that the selected candidate have an ability to understand police staffing, call volume, response time, organizational structure, and the criminal-justice system. At the same time, the selected candidate must be able to envision a system in which police interventions are not the sole means of addressing calls for service. The candidate may be an individual or a firm.

Expertise and experience. Preferred candidates will be able to show experience across several necessary components:

1. **Research and Data Analysis.** Must have strong quantitative research skills, including data analysis, and experience with a variety of qualitative methods, including:
 - a. Cultural dynamics
 - b. Ethnographic interviewing
 - c. Survey methods and instrument design
 - d. First-hand observations
 - e. Community-based participatory research
2. **Subject-Matter Expertise.** The consultant should have some professional background in justice, civil rights, policing, or public safety best practices, such as:
 - a. Law
 - b. Policy review
 - c. Community policing and police legitimacy
 - d. Problem-oriented policing
 - e. Use-of-force policy and training
 - f. De-escalation policies and training
 - g. Services for people with mental-health or substance use disorder issues or those experiencing homelessness
 - h. Diversion (including pre-arrest) and alternatives to prosecution
 - i. Anti-racism training, and anti-racism practice, policy, and culture implementation
 - j. Reducing racially disparate impacts in criminal justice outcomes
 - k. Conducting racial equity impact analyses (See Appendices 4, 5, 6) and proposing methods for addressing racial disparities

- l. Police accountability systems
 - m. Restorative justice (including community-based restorative justice models not involving the criminal justice system)
 - n. Criminal justice and police reform proposals, such as Transforming the System, the Kerner Commission Report, etc.
 - o. Current best policing practices, e.g., President’s 21st Century Task Force Report, PERF 30 Guiding Principles, Special Community/Police Task Force Recommendations
 - p. A familiarity with PSAP-based and direct-dispatch call intake, as well as response times and call types
 - q. Familiarity with modern best practices and the degree to which they are resource-intensive
3. Innovation and Creativity. Police reform has historically failed because it tends to center on the police instead of on the community. The selected consultant needs to be creative in their suggestions by listening to the community and addressing cultural change within the department – beginning with who to choose to become officers, the training and therapy officers receive, the policies, practices, and systems they operate in, and the systemic racism and bias found in those systems. The consultant should have some professional background in:
- a. Community building
 - b. Direct service models
 - c. Community transformation
 - d. Public engagement approaches
 - e. Human resources
 - f. Organizational change and development

VI. SUBMISSION GUIDELINES

To be considered, please submit an electronic and/or physical copy by 6:00 p.m. EST on December 15, 2020 to:

Public Safety & Police Commission Joint Committee
c/o Shannon Trammell
Burlington Police Department
1 North Avenue
Burlington, VT 05401

Or electronically to: strammell@bpdvt.org

Interested Consultants must provide:

1. A Technical Proposal addressing your approach to the requested Scope of Work outline and the process that the Consultant proposes to accomplish the tasks outlined in the scope of work. (no more than 3 pages)
2. A Statement of Experience addressing the above requirements and describing the consultant's prior experience (no more than 3 pages)
3. Proof of Experience. The selected consultant will provide three references and optimally, will be able to share two materials from previous assessments
4. A detailed cost estimate.

CONTRACTING

The selected consultant must qualify as an independent contractor and prior to being awarded a contract, must apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1101, PH: 802-828-2363, Toll-free: 800-439-8683; Vermont Relay Service – 711; web site: <https://www.sec.state.vt.us/>. The contract will not be executed until the consultant is registered with the Secretary of State's Office. Prior to beginning any work, the consultant shall obtain Insurance Coverage in accordance with the Burlington Consultant Conditions (Exhibit C to this RFP). The certificate of insurance coverage shall be documented on forms acceptable to the City.

If the award of the contract aggrieves any person or entity, they must appeal in writing to the City. The appeal must be post-marked within seven (7) calendar days following the date of written notice to award the contract.

AGREEMENT REQUIREMENTS

The selected consultant will be required to execute a contract with the City on the terms and conditions required by the City, including but not limited to those in the Burlington Consultant Conditions (Attachment C) and the attached Draft Agreement.

LIMITATIONS OF LIABILITY

The City assumes no responsibility or liability for the response to this Request for Proposals.

COSTS ASSOCIATED WITH PROPOSAL

Any costs incurred by any person or entity in preparing, submitting, or presenting a proposal are the sole responsibility of that person or entity, including any requests for additional information or interviews. The City will not reimburse any person or entity for any costs incurred prior to the issuance of the contract.

INDEMNIFICATION

Any party responding to this Request for Proposals is acting in an independent capacity and not as an officer or employee of the City. Any party responding to this Request for Proposals will be required to indemnify, defend, and hold harmless the City, its officers, and employees from all liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the responding party's acts and/or omissions in or related to the response.

REJECTION OF PROPOSALS

The City reserves the right to reject any or all proposals, to negotiate with one or more parties, or to award the contract to the proposal the City deems will meet its best interests, even if that proposal is not the lowest bid. The City reserves the right to re-advertise for additional proposals and to extend the deadline for submission of the proposals. This Request for Proposals in no way obligates the City to award a contract.

OWNERSHIP OF DOCUMENTS

Any materials submitted to the City in response to this Request for Proposals shall become the property of the City unless another arrangement is made by written agreement between the City and the responding party. The responding party may retain copies of the original documents.

DUTY TO INFORM CITY OF BID DOCUMENT ERRORS

If a bidder knows, suspects, or has reasonable cause to believe that an error or omission exists in any of the bid documents, including but not limited to unit prices and rate calculations, the bidder shall immediately give the City written notice thereof. Consultants shall not cause or permit any work to be conducted that may related to the error or omission without first receiving written acknowledgement from the City that City representatives understand the possible error or omission and have approved the requested modifications to the bid or contract documents or that the consultant may proceed without any modification being made to the bid or contract documents.

PUBLIC RECORDS

Any and all records submitted to the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act. The determination of how those records must be handled is solely within the purview of City. All records the responding party considers to be trade secrets, as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act, or that the responding party otherwise seeks to have the City consider as exempt must be identified clearly and specifically at the time of submission. It is not sufficient to merely state generally that a proposal is proprietary, contains a trade secret, or is otherwise exempt. Particular records, pages, and sections which are believed to be exempt must be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

PUBLIC HEALTH EMERGENCIES

Bidders are advised that public health emergencies, as declared by the City, the State of Vermont, or the Federal Government, including the current pandemic of Novel Coronavirus (COVID-19), may introduce significant uncertainty into the project, including disruption of timelines or revised practices. Consultants shall consider public health emergencies as they develop project schedules and advance the work.

The City may require a public health emergency plan be submitted as part of the bid. This plan will contain:

- 1) Measures to manage risk and ensure that potential impacts to safety and mobility are mitigated in accordance with health and safety standards and guidelines proposed by local, state, and federal agencies;
- 2) A schedule for possible updates to the plan in advance of the start of work (see attached Draft Agreement); and
- 3) Means to adjust the schedule and sequence of work should the emergency change in nature or duration.

The City will have sole discretion to approve, deny, or require changes to this plan as a condition of consideration of the bid, will retain the right to inspect all work to ensure compliance with health and safety standards, and may at any time require the consultant to stop work because of the emergency.

If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any expenses or losses incurred as a result of any delays. Any delays related to public emergencies, including the current pandemic of Novel Coronavirus (COVID-19), will be excusable, but will not be compensable.

#

City of Burlington, Burlington Police Assessment

December 15, 2020

Submitted to:

Public Safety & Police Commission Joint Committee
c/o Shannon Trammell
Burlington Police Department
1 North Avenue
Burlington, VT 05401

Submitted by:

CNA
Edward C. Gibson
3003 Washington Boulevard
Arlington, VA 22201
contracts@cna.org|
(703) 824-2082



I, the undersigned, being duly authorized to submit this application on behalf of the CNA Corporation, hereby represent and certify that all required documents have been submitted and, to the best of my knowledge, are true, are complete, and accurately describe the proposed project.

Gibson.Edward.C.O
RC3011029448.ID

Digitally signed by
Gibson.Edward.C.O
48.ID
Date: 2020.12.07 11:40:01 -05'00'

Edward C. Gibson

This proposal includes data and intellectual property that shall not be disclosed outside the government and shall not be duplicated, used, or disclosed – in whole or in part – for any purpose other than to evaluate this proposal. If, however, a contract or grant is awarded to this offer or as a result of – or in connection with – the submission of these data and intellectual property, the government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the government's right to use information contained in this proposal if it is obtained from another source without restriction.

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Introduction

At this defining moment for public safety and police reform, the City of Burlington, Vermont, (“the City”) has tasked a joint committee comprised of the City Council Public Safety Committee and Police Commission (“Joint Committee”) to explore the reimagining of public safety that includes a functional and operational assessment of policing operations. The recent deaths of George Floyd, Breonna Taylor, and many others marked an inflection point when the national demand grew for increased racial justice and examination of the role of law enforcement. June 2020 protests and rallies in the City resulted in a campaign of community activities that called for the Burlington Police Department (BPD) to address racial disparities in police violence and the use of force against Black, Indigenous, and people of color (BIPOC) communities. The community campaign called for reducing reliance on the BPD in the provision of public safety. Further, the City Council adopted the Mayor’s budget to reduce the BPD staff by 30 percent and passed the *Resolution Relating to Racial Justice through Economic and Criminal Justice*. In response, the Joint Committee aims to work collaboratively with the community to overcome public safety challenges including racial, socioeconomic, and mental health bias within policing and uneven access to police services.

Our team—CNA, ICMA, and OIR (“CNA Team”)—represents nationally recognized leaders in achieving public safety and police reform, identifying structural and systematic racism, and guiding local police agencies through organizational change. For more than 20 years, CNA (prime consultant) has provided innovative and effective public safety consulting services, resulting in sustained positive and measurable changes in public safety and police departments. We have demonstrated our ability to advise complex organizations through restructuring and organizational change through our support of the Chicago Consent Decree monitoring project, our support of the Office of Community Oriented Policing Services (COPS Office) Collaborative Reform Initiative in four cities, and our local assessment work in jurisdictions including Albany, New York; Maricopa County, Arizona; Charleston, South Carolina; Methuen, Massachusetts; and Tulsa, Arizona. From our collaborative reform, racial bias, and community engagement work with more than 450 law enforcement agencies nationwide, our team has extensive experience in organizational assessments and analysis, as well as specialized topics such as racial bias analysis, policy and practice review, and policing for the future. Our team is comprised of strong leaders with experience helping public safety agencies and police departments recalibrate their operations to run efficiently and effectively while meeting the needs and expectations of communities.

Our team is comprised of staff well versed in public safety reform, police-community relations, policing interactions with individuals experiencing a behavioral health crisis, BIPOC communities, police reform, and crisis intervention (see Appendix A). **Project Director Ms. Julie Solomon (CNA)** will lead our team and oversee all aspects of the project, including developing and implementing a consistent and rigorous approach to data collection (document review, interviews), analysis, recommendations, action plan development, and dissemination of findings to community stakeholders. Ms. Solomon will be supported by **Deputy Project Director Dr. Brittany Cunningham (CNA)**, public safety and police operations senior advisors **Dr. James McCabe (ICMA)** and **Mr. Michael Gennaco (OIR)**, community relations subject matter expert **Mr. Stephen Rickman**, and police practices subject expert **Lt. (ret.) Thomas Woodmansee**. Additionally, our team will draw upon a cadre of analysts and subject matter experts in public safety, racial bias and equity in public operations, police accountability and reform, community engagement, restorative justice, crisis intervention, mental health and safety, and protection of vulnerable populations.

Our team is committed to performing impartial and rigorous data collection and analysis and engaging with diverse community groups. Our broad experiences performing organizational law enforcement and public safety assessments make us an ideal partner to support the Joint Committee in meeting its goals and executing the entire scope of services requested in the RFP.

1. Technical Approach

Our engagement will begin with a virtual kickoff meeting with the Joint Committee to gather additional information from the client about the community demographics and concerns, develop clear expectations, reduce challenges and roadblocks during project execution, and identify opportunities for collaboration. We will also use the kickoff meeting to establish a schedule for regular check-in calls with the Joint Committee and an agreement on timelines and other elements of the project plan. We will then immediately begin data collection and analysis activities. Additionally we will provide monthly public written (PPT) and verbal updates at Joint Committee meetings. Next we detail our approach to addressing the scope of services in the RPF, specifically **(A) the *what* and *how* (call volume, workload, and alternatives), (B) the *who* (racial and socioeconomic bias) and the *where* (racial and socioeconomic bias in what areas are being policed), and (C) the findings, recommendations, menu of services, and roadmap for the transformation of public safety.**

A. What and how: call volume, workload, and alternatives

Tasks

- 1 Computer-aided dispatch (CAD) and workload data collection and analysis
- 2 Document review (e.g., policies, directives, training)
- 3 Key literature and peer agencies' alternative practices for policing review

Task 1. Computer-aided dispatch (CAD) and workload data collection and analysis. CNA will request access to CAD and administrative data related to workload (e.g., response data for patrol units, caseloads for investigative personnel, call loads for dispatch and communications staff). We will work with the managers of each database to ensure we understand the scope and limitations of the data. Our assessment team will perform an intensive analysis of calls-for-service and workload data. The goal of this analysis will be to provide the Joint Committee with an in-depth understanding of both reactive and proactive police response, its impacts on the community, and potential avenues to redirect or reevaluate resource use. This analysis will focus on the use of nature codes in BPD. Our team will begin by performing a complete descriptive analysis of the nature codes in the calls-for-service data, including (as appropriate) cross-tabulations by other factors present in the calls-for-service data (e.g., shift/time of day, number of officers/cars responding, response time). Our team will consider adjudication of calls and call priority levels. We will conduct an exploratory data analysis to understand call types, response times, priority levels, time spent on the call, and final call disposition and the relationships between these factors. During this process, we will estimate the staffing levels required for patrol shifts to meet demands for service. The CNA assessment team will determine the number and distribution of officers required to answer calls for service. We will examine patterns in this data to develop recommendations regarding adjustments to call type code priority levels. We will also make recommendations, based on our knowledge of best and emerging practices as well as practical considerations, regarding call type codes that could be better adjudicated by non-sworn response options in BPD, by other community or government response services, or through semi-automated processes such as forms or portals the community member can access directly.

Task 2. Document review. General orders, doctrine, policies, practices, directives, and collective bargaining agreements establish and shape much of an agency's organization. These items also manifest the values of the City and BPD. CNA will work with the Joint Committee to identify the official documents that govern police functionality and operations. These documents will likely come in various forms (e.g., policies, general orders and directives, standard operating procedures, specialized section manuals, bulletins, local ordinances, training lesson plans) from various divisions within the agency. Department

documents will support assessment goals by providing a baseline understanding of the department's organization and a formal approach to law enforcement activities.

Task 3. Reviews of key literature and peer agencies' alternative practices for policing. CNA will conduct in-depth research of relevant extant research literature, program evaluations, and data and organizational information on alternative approaches to policing non-criminal calls for service, or low-level crimes. This research will include an in-depth review of the benefits and challenges of alternative approaches implemented by peer agencies similar in size and community demographics to Burlington. These alternative approaches will include those identified in the RFP (e.g., community liaisons, traffic agents, crisis responders) as well others, such as: embedded clinicians into 911 response centers, intensive case management teams within police departments, and semi-automated processes such as forms or portals to report nonviolent, noncriminal activity (e.g., open fire hydrant, dead animal). The team will leverage our strengths in public safety reform, crisis intervention, and community relations to place these data in the context of national and peer best practices. The CNA team will identify cities of comparable size and with similar demographics, population density, and crime rates, and we will conduct a qualitative assessment of any innovative approaches to policing and public safety in those cities. When possible, the CNA team will use sites within Vermont to maintain consistency with state laws. If sites outside of Vermont are necessary, we will use bordering states to maintain regional consistency.

B. Who: racial and socioeconomic bias; where: racial and socioeconomic bias in what areas are being policed

Tasks

- 1 Conduct stakeholder and community interviews
- 2 Document review (e.g., policies, directives, training)
- 3 Racial, socioeconomic, and mental health bias analysis

Task 1. Conduct stakeholder and community interviews. CNA will conduct semi-structured interviews to develop an understanding of formal policies and procedures, insights into the policing and public safety culture in Burlington, and knowledge of community concerns. Our team will work with the Joint Committee and the Director of Police Transformation to develop interview protocols. The interviews will provide qualitative data for our assessment of policing practices, culture, and community policing approaches, expanding our understanding of the City's public safety culture and unique dynamics. During this engagement, CNA will interview BPD and City public safety personnel, 911 and crisis responders, case managers, and additional community leaders and stakeholders to be identified in collaboration with the Joint Committee. We will use these interviews to understand personnel perceptions of deployments for various types of calls, including quality-of-life issues, code violations, and violent crime. CNA anticipates conducting approximately 20 interviews within the scope of work. CNA will conduct interviews with community members to explore the impacts and outcomes of BPD programs and practices. We anticipate conducting interviews with representatives of several community-based organizations, including the Racial Justice Alliance, Howard Center, Boys and Girls Club, Anew Place, Spectrum Youth, and Family Services. Given the COVID-19 pandemic, we will conduct all interviews virtually, using teleconferences and platforms such as Zoom. We have developed a methodology for engaging community members in this manner that has proven effective. Specifically, we facilitate these sessions via Zoom as we would an in-person focus group, with a defined interview script that allows for variation in response and video capabilities for all participants to increase engagement in the discussion.

Task 2. Review of document. When reviewing documents for Activity A, Task 2 (see previous section), CNA will pay specific attention to policies that contribute to or increase the likelihood of racial, socioeconomic, and mental health bias, and the team will examine policies to determine whether they

may inadvertently result in disparate outcomes for members of historically underrepresented groups within the community. Our policy review will also focus on community policing and how community policing principles are incorporated into written documents, policy, and training. Specifically, whether community-oriented policing principles and theory are incorporated holistically into department policy and operations, or whether they are largely siloed in specialized policy and training sessions. Our team will also review documents against the *Resolution Relating to Racial Justice through Economic and Criminal Justice* and documents on the CommSTAT process to assess alignment, identify gaps, and inform recommendations to improve services for all Burlington residents and visitors.

Task 3. Racial, socio-economic, and mental health bias analysis. CNA will request administrative data on incidents, traffic stops, use of force, and other police officer-civilian interactions from the records management system and other administrative databases. The administrative data component of the assessment will provide critical quantitative insight regarding patterns and practices related to police interactions with the public. We will conduct a thorough descriptive analysis of BPD data. This step will uncover basic patterns and trends in police-community member interactions. Depending on the volume and cleanliness of data BPD can provide, CNA may analyze interaction data (use of force, traffic stops, and other interactions) in terms of disproportionality. Disproportionality in outcomes is often expressed in terms of compound ratios (for example, the ratio of the percentage of police interactions with Black individuals involving use of force to the corresponding percentage for white individuals). We have used this analytic framework successfully in multiple communities and found that it produces results that community members can use. CNA will analyze citizen and officer complaint data (i.e., de-identified external and internal complaint data) such as case processing and outcomes, including discipline. CNA will use exploratory quantitative analysis approaches for complaints. In this approach, our team begins by conducting descriptive analyses of the complaint data. We also calculate these measures over time to explore time trends. Next, we conduct cross-tabulations across different variables of interest, including demographics such as race and age for the subject of the complaint and the complainant. We consider factors such as complaint type and outcome. CNA will couple quantitative analysis with qualitative inquiry during this portion of our review to fully understand the complaint case process.

C. Findings, recommendations, menus of services, and roadmap

Tasks	
1	Findings and recommendations
2	Menu of services and roadmap

Task 1. Findings and recommendations. CNA will outline key findings and targeted recommendations in a menu of services format to reduce the reliance on law enforcement responses to all calls, and to support the reduction of racial, socioeconomic, and mental health bias while meeting the public safety needs of the community. We will describe the challenges and benefits to feasible alternative policing practices. We will also make recommendations, based on our knowledge of best and emerging practices as well as practical considerations, for responses to calls for service that could be better adjudicated by non-sworn response options in BPD, other community organizations, public safety entities, or other government response services. In this instance, “actionable” recommendations relate directly to specific public safety operations, are realistically achievable given fiscal and organizational constraints, and are specifically written so that they can be assessed for quality and future compliance.

Task 2. Menu of services and roadmap. Additionally, our team will provide a roadmap for implementing the best fitting alternatives aligned with the community vision. All key stakeholders will be addressed in the roadmap including the Joint Committee, the City, BPD, public safety leaders, and community members (community advisory and action groups).

2. Statement of Experience

Research and data analysis. Our team has conducted racial bias audits for several police agencies including the Albany, New York, Police Department; the Charleston, South Carolina, Police Department; and the Maricopa County, Arizona, Sheriff’s Office, and we have incorporated racial bias analysis in our collaborative reform work with Fayetteville, North Carolina; Spokane, Washington; Las Vegas, Nevada; and Philadelphia, Pennsylvania. This includes specialized expertise and experience reviewing and assessing law enforcement agencies for bias and disparities due to race, ethnicity, and gender in relation to law enforcement activities such as use of force, searches, arrests, charges, or citations. Our experience conducting racial bias analyses provides the City with a knowledgeable partner to conduct impartial review and assessment related to social injustice and police-community interactions.

Subject-matter expertise. CNA maintains a roster of more than 200 nationally recognized experts whom we can call on to provide expertise to execute the scope of services in the RFP (see Table 1).

Table 1. Sample of Subject Matter Experts

Expertise Areas	TTA SME and Consultant Examples
Police use of force, de-escalation	Chief (ret.) William “Bill” Taylor, Chief (ret.) Robert White, Tom Woodmansee, William Taylor, Chief (ret.) Terrance “Terry” Gainer, J.D.
Problem-oriented policing	Scott Decker, Harold Medlock, Rodney Monroe, Chief (ret.) Harold Medlock, Scott Decker, Chief (ret.) John Skinner
Public safety operations, policy review, management, and reform	City Manager (ret.) Dr. Theron Bowman, Tammy Felix Public Safety Director (ret.), Geoffrey Smith
Police accountability and reform	Brenda Bond, Chip Coldren, Chief (ret.) Harold Medlock, Scott Decker, Chief (ret.) John Skinner
Restorative justice	James R. Coldren, Jr., Rachel Johnston, Laura Kunard
Reducing racially disparate impacts in criminal justice outcomes; addressing racial disparities; and performing racial equity impact analyses, anti-racism training, and anti-racism practice, policy, and culture implementation	Zoe Thorkildsen, Bridgette Bryson, Brittany Cunningham, Chief (ret.) William “Bill” Taylor
Community policing and police legitimacy	Laura Kunard, Rodney Monroe, Laura McElroy, Stephen Rickman, Hildy Saizow
Crisis intervention, mental health, and safety	Laura Kunard, Bruce Johnson, Valerie Schmidt, Laura Usher
Law, unions, collective bargaining, and diversion (diversion including pre-arrest and alternatives to prosecution)	Chief (ret.) Terrance “Terry” Gainer, J.D.; Jennifer Lafferty, J.D.; Chief (ret.) William “Bill” Taylor

Innovation and creativity. CNA has extensive experience guiding public safety entities through organizational development and change through comprehensive analyses focused on agencies’ services provided and needs served. These agencies include the Spokane, Washington, Police Department; Philadelphia, Pennsylvania, Police Department; Las Vegas, Nevada, Metropolitan Police Department (LVMPD); and Fayetteville, North Carolina, Police Department as part of the COPS Office Collaborative Reform Initiative. Our direct experience in these areas includes assessment and reform regarding critical public safety topics such as calls for service, response data for patrol units, community-oriented policing, crisis intervention, patrol operations, traffic stops, use of force incidents, community contacts, police shootings of civilians, and de-escalation of violent encounters.

Culture Change. CNA has experience connecting with communities and police agencies to understand a wide variety of perspectives and expectations about the culture of policing. We have experience conducting focus groups and surveys with police department personnel (sworn and civilian) that solicit community and personnel input, and we have experience moderating town hall meetings and other gatherings in which police and community members discuss timely issues that affect police-community relations. In our work on the COPS Collaborative Reform Initiative, we conducted community outreach and focus groups to inform our recommendations. In Fayetteville, North Carolina, for example, we interviewed 31 community members and facilitated a community listening session before developing 76 recommendations.¹ In a similar vein, we recently conducted a representative survey of Chicago residents to understand their feelings, opinions, and experiences with the Chicago Police Department (CPD).² The Independent Monitoring Team designed the sampling approach and questionnaire for the survey to systematically gather Chicago residents' perceptions of the CPD among diverse subgroups, and to identify opportunities for how the CPD can improve.

Familiarity with Burlington, Vermont. CNA initiated a self-funded research project, the Opioid Data Initiative, and engaged a select 11 jurisdictions across the country to examine how data are being used to drive solutions to the opioid epidemic. One of the partners was BPD. The goal of this effort was to help jurisdictions harness the full potential of a data-driven response approach that more effectively and efficiently targets resources and expertise to fight the epidemic. As a partner, BPD participated in the Chittenden County Opioid Alliance (CCOA). The CCOA has four action teams, each with a specific focus area, mission, and goals. Areas of focus include community-level prevention, treatment access and recovery support, working recovery, and the COMMSTAT rapid intervention. In this project, CNA found a sudden yet sizeable one-month reduction in patient enrollment in methadone clinics, and our researchers wanted to understand why this occurred. We found that the reduction coincided with a period during which the clinic lost several staff members. Thus, BPD was able to conclude that people struggling with opioid use disorder had stopped seeking help or were going elsewhere to obtain it because the clinic simply did not have enough resources to enroll as many patients.

Experience with projects of similar scope and size

Racial Bias Audit of Albany, New York, Police Department. In 2020, CNA performed a racial bias audit for the City of Albany, New York, and the Albany Police Department (APD). The audit team reviewed 84 of APD's general orders, conducted 24 semi-structured interviews, and analyzed eight sets of administrative data, including calls for service, traffic stops, arrests, field interviews, use of force, community complaints, civil rights lawsuits, and department personnel information. The audit team developed a preliminary report and incorporated feedback from the City of Albany, APD, and the community through a public comment period. The final report, released on December 2, 2020, includes 61 findings and 120 associated recommendations. The audit team made seven presentations to stakeholders in Albany, including the Albany Police Reform and Reinvention Collaborative, the mayor and police chief, the Albany Common Council, and the community. The audit team also participated in the City of Albany's press conference announcing the release of the final report and addressed questions from local media.

Performance Audit of the Methuen, Massachusetts, Police Department. CNA is conducting a performance audit of the Methuen, Massachusetts, Police Department. We are assessing policing operations while examining and evaluating all aspects of the current management practices, which include budget and financial management, facilities, training, staffing and hiring, equipment, and policies

¹ <https://cops.usdoj.gov/RIC/Publications/cops-w0790-pub.pdf>

² https://cpdmonitoringteam.com/wp-content/uploads/2020/08/2020_08_26-Community-Survey-Filed.pdf

and procedures. The team will conduct interviews, document reviews, direct observation, and data analysis to develop a report that includes findings and recommendations aimed at improving efficiency. We will present the audit findings to the City of Methuen during a presentation highlighting areas of high performance and recommendations for improvement. The presentation of findings will support transparency and community engagement principles, as well as the promotion of both internal and external procedural justice.

Charleston, South Carolina, Police Department Racial Bias Audit. In 2019, CNA conducted a racial bias audit of the Charleston Police Department (CPD). We worked closely with the department and community to assess, monitor, and assist the CPD in uncovering any aspects of implicit bias or systemic and individual racial bias through review and analysis of traffic stops, use of force, complaints, community-oriented policing, and recruitment and hiring. Our team implemented document reviews, interviews, community meetings, and data analysis, and we developed a report that includes 48 findings and associated recommendations.³ The team provided recommendations for reforms to improve community-oriented policing practices, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and public trust. In support of this work, we reviewed all departmental policies and general orders, conducted 87 interviews with departmental personnel and community stakeholders, held six community meetings involving more than 290 community members, and analyzed five administrative datasets. The purpose of the interviews with the community was to gain a better understanding of CPD’s policies, training, and operations as they related to racial disparity in use of force, traffic stops, complaints, recruitment and hiring, and interactions with community members. The CNA team built consensus among law enforcement, city, and community stakeholders for a series of recommended improvements in policing operations.

Philadelphia, Pennsylvania, Collaborative Reform Initiative. CNA was the inaugural training and technical assistance provider for the Office of Community-Oriented Policing Services Collaborative Reform Initiative. In Philadelphia, CNA conducted a comprehensive examination of more than 390 officer-involved shooting (OIS) incidents, specifically analyzing the times and locations of OISs, the individuals involved (officers and suspects), and the dynamics of the encounters. CNA also looked into the issues of racial bias and threat perception, examining these factors independently and together. After a 12-month assessment, CNA delivered 48 findings and 91 recommendations. In Fayetteville, North Carolina, CNA conducted an in-depth analysis of the police department’s traffic stops and field-initiated contacts. In analyzing more than 68,000 traffic stops, CNA conducted a series of descriptive analyses to understand the relationship between citizen race and traffic stop reasons and outcomes. We compared the races of drivers across different reasons for traffic stops. We also compared the likelihood of a stop resulting in a search and the relative likelihood.

3. Proof of Experience

Name & Title	Organization	Email	Phone
Dorcey Applyrs Chief City Auditor	Albany Police Department	dapplyrs@albanyny.gov	518-894-8981
Christine Coulter Deputy Commissioner	Philadelphia Police Department	christine.coulter@phila.gov	215-964-0281
Jason Bruder Lieutenant	Charleston Police Department	bruderj@charleston-sc.gov	843-720-3026

³ Rodriguez, D., Richardson, K., Thorkildsen, Z., Monroe, R., Medlock, H., Rickman, S. (2019). *Final Report: Racial Bias Audit of the Charleston, South Carolina, Police Department*. Arlington, VA: CNA. Available at <https://www.cna.org/research/charleston>

Appendix B provides samples of our past work associated with the requested scope of services.

4. Cost Estimate

In this section, we provide a budget to perform the scope of services with proposed billing rates for our staff, which assumes a period of performance of January 2021 to April 2021.

Table 2. Fee Schedule

Name	Role	Labor Rate	Hours	Cost
Staff				
Ms. Julie Solomon	Project Director	\$ 226.36	100	\$22,636.12
Dr. Brittany Cunningham	Deputy Project Director	\$ 193.57	80	\$15,485.56
Dr. James McCabe, ICMA	Advisor	\$ 111.47	40	\$4,458.63
Lt. Tom Woodmansee	Subject Matter Expert	\$ 154.86	40	\$6,194.20
Mr. Michael Gennaco, J.D., OIR	Subject Matter Expert	\$ 222.72	40	\$8,908.89
Mr. Stephen Rickman	Subject Matter Expert	\$ 128.07	40	\$5,122.61
Ms. Zoe Thorkildsen	Analyst	\$ 221.31	40	\$8,852.49
Ms. Kalani Johnson	Analyst	\$ 106.63	120	\$12,796.05
Ms. Monique Jenkins	Analyst	\$ 87.53	120	\$10,503.80
Mr. Greg Mercer	Editor	\$ 127.32	20	\$2,546.50
Ms. Lola Omotoye	Contract Analyst	\$ 168.09	12	\$2,020.12
ODCs (Background Checks, Insurance)				\$ 3,152.67
Total				\$ 99,524.96

Appendix A. Project Team

Our team will adopt a highly cooperative and collaborative approach, with Ms. Julie Solomon serving as project director, Dr. Brittany Cunningham serving as deputy project director, and advisors Dr. James McCabe, Mr. Stephen Rickman, and Mr. Michael Gennaco and Lt. (retired) Thomas Woodmansee. Analysts Ms. Zoe Thorkildsen, Ms. Kalani Johnson, and Ms. Monique Jenkins will also support the project. Table 2 summarizes the expertise of our project team aligned with the scope of services in the RFP. In addition to our project team, we can draw on a diverse network of more than 200 subject matter experts on policing, relevant reform efforts and current legal constraints on policing reform, and related topics.

Table 2. Project Team Expertise

Project Team	Research & Data Analysis (Quantitative & Qualitative)	Public Safety Operations	Racial Equity Analysis and Training	Best Policing Practices	Community Partnership & Engagement
Julie Solomon	✓	✓	✓	✓	✓
Brittany Cunningham, Ph.D.	✓	✓	✓	✓	
James McCabe, Ph.D.	✓	✓		✓	
Stephen Rickman	✓	✓	✓		✓
Lt. (ret.) Thomas Woodmansee	✓	✓		✓	✓
Michael Gennaco, J.D. (OIR)		✓		✓	✓
Zoë Thorkildsen	✓	✓	✓	✓	✓
Kalani Johnson	✓	✓	✓	✓	✓
Monique Jenkins	✓	✓		✓	✓



Julie Solomon, MBA, MSW, will serve as project director (CNA). Ms. Solomon is a licensed clinical social worker with experience in police interactions with BIPOC community members, people with mental illness, and Crisis Intervention Teams (CIT). She currently serves as the associate monitor for crisis intervention on the Consent Decree for the Chicago Police Department. In this role, she provides oversight on compliance with 21st century policing practice for law enforcement response to persons in behavioral health crisis. As an expert in this area, Ms. Solomon understands the value of public safety, while ensuring that people with mental illness receive necessary, quality care. She has been instrumental in developing the following alternatives to policing initiatives: a Mental Health Co-Responder program, jail diversion programs, Justice Involved Case Management, a 24/7/365 Crisis Center, and a new Non-Person Felony Behavioral Health Court. Ms. Solomon is committed to imagining public safety beyond law enforcement intervention and implementing evidence-based practices that improve quality of life while building community trust.



Brittany Cunningham, Ph.D., will serve as deputy project director (CNA). Dr. Cunningham brings 14 years of experience applying evidenced-based practices to inform organizational reform at all levels of government. She is an expert in applying statistics, survey methodology, and data-driven approaches to improve organizational practice, policies, training, and operations for law enforcement and public safety entities. Dr. Cunningham currently serves as project director for the Using Analytics to Improve Officer Safety study, funded by the Bureau of Justice Assistance (BJA), which investigates police incident data to support the development of an analytical risk assessment model. She also supports the racial bias audit of traffic stops for the Maricopa County Sheriff's Office and the assessment of Prince George's County's (Maryland) Police Department's policies and procedures related to police-community relations. She understands the necessity to reduce racially disparate impacts in criminal justice outcomes to strengthen community cohesion.



James E. McCabe, Ph.D., will serve as an advisor (ICMA). Mr. McCabe is a 21-year veteran of the New York City Police Department (NYPD). During his NYPD career, he held numerous assignments including the Commander of the Office of Labor Relations, the Commander of the Training Bureau and Police Academy, the 110th Precinct, as well as numerous other operational and managerial assignments. He has lectured around the country to both police and academic audiences about organizational behavior, leadership, supervisory communications, and the impact of police operations on public safety and neighborhood satisfaction with police services.



Stephen Rickman will serve as a community relations subject matter expert (SER). Currently Mr. Rickman works as an associate monitor for community policing for the Albuquerque, New Mexico, and Chicago, Illinois, police department consent decrees and as a Department of Justice (DOJ) subject matter expert for the BJA Body-Worn Camera (BWC) TTA Program. Prior to this work, he served as a technical advisor on the Taskforce for 21st Century Policing. Mr. Rickman brings an exceptional record of hands-on experience in the management and direction of programs and projects in support of government operations at all levels. He has spent over 25 years in high-level positions in the public safety and community support areas. His public service portfolio includes directing the Washington, DC, Criminal Justice Statistics Analysis Center; serving as organizer and vice chair of the Community Prevention Partnership; and serving as director of the DOJ Weed and Seed program, a community-based program focused on building relationships between law enforcement and the community.



Michael Gennaco will serve as an advisor (OIR). As a principal of OIR Group, Mr. Gennaco provides services in the field of independent oversight, serves as a monitor for negotiated agreements involving police reform, assists federal courts in developing remedial plans intended to cure defects in constitutional policing, conducts independent reviews of critical incidents including officer-involved shootings and in-custody deaths, conducts audits of law enforcement departments focusing on review of internal investigative processes and policies, and undertakes independent internal investigations of allegations of police misconduct.



Lieutenant (ret.) Thomas Woodmansee, MS, will serve as a subject matter expert (CNA). Mr. Woodmansee has 28 years of experience in law enforcement and criminal justice training, technical assistance, and research. He was a sworn police officer for the Madison, Wisconsin, Police Department (MPD) and is a national leader in community- and problem-oriented policing. He has participated in training police organizations for over 25 years at local, state, and national levels. Mr. Woodmansee is currently a senior advisor at CNA, and he has worked with hundreds of police agencies around the country on subjects including violence reduction strategies, organizational and cultural change, and BWC implementation.



Zoë Thorkildsen will serve as lead analyst. Ms. Thorkildsen is an expert in statistical methods for criminal justice datasets and in analysis of racial disparities in law enforcement actions. She has conducted extensive analysis of law enforcement data, including investigative stops, motor vehicle stops, searches, arrests, use of de-escalation tactics, use of force incidents, internal and external complaints, discipline findings, and recruitment and hiring. For example, she is the project director for the Maricopa County, Arizona, Sheriff's Office traffic stop analysis project, for which she leads the development of analytical methodology and offers analytical guidance to identify disparities in traffic stop patterns and outcomes.



Kalani Johnson will serve as an analyst. Ms. Johnson has worked on several multi-year projects (experimental, survey, and evaluation) regarding law enforcement engagement with victims and community members. In these projects, she worked closely with relevant stakeholders to ensure data quality, improve community education instruments, and recruit interview participants. Most recently, Ms. Johnson served as lead quantitative analyst on the Metropolitan Police Department Narcotics and Specialized Investigative Division independent review, which examined disparate criminal justice outcomes (e.g., arrests, use of force, citizen complaints). Her academic background is in sociology and criminology/criminal justice, and she has particular interest in race, gender, and class.



Monique Jenkins will serve as an analyst. Ms. Jenkins serves as an analyst for multiple projects, including the Strategies for Policing Innovation, the Body-Worn Camera Policy and Implementation Program, and the Justice Reinvestment Initiative. She served as a primary analyst for CNA's work assessing operations and organizational culture in the Methuen, Massachusetts, Police Department. She has worked with the National Alliance on Mental Illness (NAMI) to provide information about mental health conditions and treatment options, NAMI education and support programs, and other mental health resources.

Appendix B. Work Samples

Sample reports are included on the following pages.

1. Racial Bias Audit of the Albany, New York, Police Department Report
2. Philadelphia, Pennsylvania, Collaborative Reform Initiative Report
3. Racial Bias Audit of the Charleston, South Carolina, Police Department – Introduction and Summary of Findings



DECEMBER 2020



Final Report

RACIAL BIAS AUDIT OF THE ALBANY, NEW YORK POLICE DEPARTMENT

Zoë Thorkildsen, Bridgette Bryson, and William “Bill” Taylor



This document contains the best opinion of CNA at the time of issue.

Suggested citation:

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December 2020

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CNA acknowledges the support and assistance we received from the City of Albany, the Albany Police Department, and Albany community members and organizations in completing this report. The input, experiences, data, and resources we received were invaluable in compiling our findings and recommendations. In particular, we would like to thank the following: Mayor Kathy Sheehan, Chief of Police Eric Hawkins, Chief Auditor Dorsey Applers, all members of the Albany Police Reform and Reinvention Collaborative, community members who participated in interviews or sent input, and Albany Police Department personnel who participated in interviews; we would also like to thank Commander Anthony Battuello, Lieutenant Joseph McDade, and Detective Sergeant Eric Zimmer who worked diligently to fulfill our data requests.

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Executive Summary

Over the last decade, the Albany Police Department (APD) has pushed forward to engage the community in a positive manner, moving towards a mission that is focused on community policing practices. During this time, the Community Policing Review Board and the Common Council have recommended police reforms and legislation changes to further improve the police department, and they have called for change to address perceived disparate treatment of minority communities. Following recent high-profile events, including the First Street Incident and the shooting of Mr. Ellazar Williams, APD has striven to improve their transparency and implement initiatives to increase community trust. Both of these incidents, along with the eruptions of public protests across the country, led the City of Albany to initiate an evaluation of policy, procedures, and practices of the police department. In addition, this audit will provide baseline information to inform the City of Albany's response to Governor Andrew M. Cuomo's Executive Order No. 203: New York State Police Reform and Reinvention Collaborative.¹ In August of 2020, the City of Albany, through a competitive bid, selected the CNA Center for Justice Research and Innovation to conduct a racial bias audit of the APD.

The objectives of CNA's racial bias audit included:

- Assess and monitor APD's internal operations, policies, procedures, and practices to detect the presence of implicit bias and systemic racial bias.
- Collect and analyze data related to traffic stops, use of force, and other police officer/civilian interactions and determine the effect on Black community members.
- Assess compliance with existing police reform policies initiated by APD and enacted by the Albany Common Council (e.g., body-worn cameras (BWCs), Right to Know Identification Legislation, and Citizen Police Review Board).
- Provide actionable recommendations for reforms that eliminate racial and implicit biases in policing deployments, strategies, policies, procedures, and practices. Such recommendations must:
 - Promote community engagement, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and public trust; and
 - Be guided by evidence-based best practices and community expectations.

Based on CNA's review of policy, procedures, and practices, as well as data provided by the APD, our key findings included:

- APD should improve data collection procedures for traffic stop data.

¹ More information on the Executive Order is available online: <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative>.

- Prior to the deployment of BWCs to detective personnel and future units, APD should update its BWC policy to reflect emerging best practices.
- Statistical differences by outcome of police stops are evident when comparing white people to people of color, further fueling community concerns about resisting arrest charges.
- Black community members initiate the majority of external complaints and civil rights lawsuits filed.
- APD personnel do not fully understand the community complaints process and how or when possible disciplinary actions could take place.
- The community complaints process is convoluted and poorly understood by community members, leading to mistrust and a perceived lack of procedural justice.
- APD should update its use of force policy so that officers better understand when they can or cannot use various forms of force.
- APD should make annual reports detailing use of force incidents publicly available to community members in the city.
- APD's philosophy and culture have a strong focus on community policing practices; APD should reinforce this message to all personnel.
- APD should review the structure of the Neighborhood Engagement Unit and School Resource Officers for efficiency and effectiveness.
- APD's website could benefit from a modern reconstruction so that each embedded page is easily accessible and allows community members to easily find current information on the organization and projects they are working on.
- The diversity of APD personnel does not reflect the racial makeup of the City of Albany.
- APD should review its recruitment and hiring practices and begin releasing annual reports on this data.
- The promotional process is of concern to personnel; APD should track this process in a database and standardize the performance evaluation process.
- APD should complete and house its annual reports of data designated in various General Orders on its website for easy access by all community members.
- APD participates in a long list of programs and should seek evaluations of these programs to determine their effectiveness and help allocate resources among them.
- There are community concerns that past proposed reforms have not been implemented, along with concerns that officers do not live in the City of Albany.
- The annual in-service training curriculum should be updated to include various topics, including but not limited to racial bias and cultural sensitivity training.

- Training is not consistent across the department, and personnel feel they need more training to sufficiently do their jobs.

Over the next year, APD will work with the City of Albany and community leaders to understand, prioritize, and implement the recommendations proposed in this report, reflecting their dedication to improving community trust. We recommend that APD and the City of Albany seek an independent firm to help implement these recommendations and track APD's progress.

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Introduction

Over the last decade, the Albany Police Department (APD) has made strides to put community policing at the forefront of their practices. In 2015, the APD was chosen as one of the 15 cities that exemplified strong efforts in community policing practices under President Obama's 21st Century Policing Taskforce.² Though APD made efforts to improve community safety and quality of life in the city, community members and organizations also pushed for reform and changes in policy and practice. The Common Council proposed changes in legislation based on a proposal from the Community Policing Review Board. The Center for Law and Justice developed many reports looking at the effectiveness of APD's community policing practices, the response to high-profile incidents, and the path to reform and change. Despite APD's work on community policing and engagement, in August 2019, the Center released a report noting that community members do not have high levels of trust in APD nor do they believe APD is effectively practicing community policing. Only 15 percent of Black community members responding to the survey agreed that APD is trustworthy. Ongoing work by community groups and initiatives will continue to propel the city and the police department to make needed changes.

The APD employs 294 sworn personnel and 86 non-sworn personnel and serves a population of more than 96,000 residents as well as an increased population during working hours and events at nighttime entertainment venues.³ The Chief of Police is responsible for all personnel, and the Deputy Chief of Operations is responsible for the Emergency Services Team, Crisis Management Team, and the Commanders. Underneath each Commander are various units and supervisors that the Command Staff oversee.⁴ The department has been taking active steps to increase their community partnerships and enhance trust in an effort to address challenges with race. As part of their participation in the national Safer Neighborhoods Through Precision Policing Initiative (SNPPI), funded by the Office for Community Oriented Policing (COPS Office), APD implemented 36 of 38 of the recommendations relevant to municipal law enforcement in the *Final Report of the President's Task Force on 21st Century Policing*.⁵

In August of 2018, a police-involved shooting occurred involving Mr. Ellazar Williams. Mr. Williams was shot while fleeing police. During the investigation, conflicting reports about incident details led to community concerns about the incident and its investigation. In March of 2019, the APD was

² The full report on Albany's engagement with the Safer Neighborhoods through Precision Policing Initiative can be found at APD's website: https://www.albanyny.gov/Libraries/APD/CNA-Albany_FastTrack_v4_PRINT.sflb.ashx.

³ Source for community statistic: US Census population estimates for July 1, 2019, accessed via QuickFacts, available online: <https://www.census.gov/quickfacts/fact/table/albanycitynewyork/PST045219>.

⁴ For a full breakdown of each supervisor's responsibility, see General Order 1.1.05 *Organizational Chart & Command Structure*.

⁵ President's Task Force on 21st Century Policing. (2015). *Final report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services.

involved in a high-profile call for service, now known as the First Street Incident. Prior to this incident, officers became aware of various complaints regarding an apartment on First Street but had not engaged in community-based problem-solving to address those issues. During a response at the address, APD officers kicked in the door of the apartment, and the incident escalated to include violent use of force. APD arrested one officer and took disciplinary action against eight officers after investigating the incident, including firing three involved officers. In addition, while the audit was underway, an APD officer made racist statements while on-duty with an Albany County Sheriff's deputy, whose body-worn camera captured the remarks. APD has announced their intention to fire the officer.

These local incidents also coincide with a renewed focus on issues of equity, racial justice, bias, and systemic racism in the criminal justice system—and particularly in law enforcement—at the national and local levels. Law enforcement agencies, local government, and the communities in which they operate must address concerns of racial bias and disparities in interactions between the police and community members. They must also acknowledge historical trauma associated with past incidents and interactions in the community. These interactions include such incidents as officer-involved shootings, use of force, searches, and traffic stops. It is important to understand that disparate outcomes do not always definitively indicate racial bias, as other factors may be at play.⁶ At the same time, identified disparities must be understood within the context of the wider criminal justice system, and the systemic and structural inequities influenced by race, racism, and other factors in that system.

Albany's history of racial tension between APD and the Black community, concerns about systemic racism within APD, and the renewed national conversation about systemic bias and racism in justice systems have led the City of Albany to initiate an evaluation of APD's policies, procedures, and practices. In August of 2020, the City of Albany, through a competitive bid, selected CNA to conduct a racial bias audit of the APD.

Goals and objectives

CNA's audit was designed to accomplish the following:

- Assess and monitor APD's internal operations, policies, procedures, and practices to detect the presence of implicit bias and systemic racial bias.
- Collect and analyze data related to traffic stops, use of force, and other police officer/civilian interactions and determine the effect on Black community members.

⁶ Fridell, L. A. (2004). By the numbers: A guide for analyzing race data from vehicle stops. Washington, DC: Police Executive Research Forum.

Simoiu, C., Corbett-Davies, S., & Goel, S. (2017). The problem of infra-marginality in outcome tests for discrimination. *The Annals of Applied Statistics*, 11(3), 1193-1216.

- Assess compliance with existing police reform policies initiated by APD and enacted by the Albany Common Council (e.g., body-worn cameras (BWCs), Right to Know Identification Legislation, and Citizen Police Review Board).
- Provide actionable recommendations for reforms to eliminate racial and implicit biases in policing deployments, strategies, policies, procedures, and practices. Such recommendations must:
 - Promote community engagement, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and public trust; and
 - Be guided by evidence-based best practices and community expectations.

Audit areas of focus

The City of Albany’s Office of Audit and Control initially identified five areas of assessment for the APD audit. They included deployment for quality of life complaints, code violations, and instances of violence; traffic stops; the complaint process (internal and external); use of force (deadly and non-deadly); and community policing practices. During our review, the audit team identified additional themes that emerged from interviews, policy reviews, and analysis of APD data sources. The report includes the following sections:

1. Patrol operations, deployments, and traffic stops
2. Complaints and civil rights lawsuits
3. Use of force
4. Community policing
5. Recruitment, hiring, and retention
6. Oversight and accountability
7. Training

Methodology and approach

The CNA audit team based its approach on a number of guiding principles, including the following: (1) evidence-based assistance with an emphasis on research, including both academic research and documented lessons learned and best practices from the field; (2) a multi-method assessment design, including interviews, policy and document review, and data analysis; and (3) a commitment to conducting comprehensive reviews and applying best practices in police settings. CNA’s methodology included three major components described below.

Document review

The audit team reviewed APD's General Orders (GOs) related to the areas of the assessment identified above. Out of the 131 GOs received from APD, our team reviewed 84 GOs: 35 were reviewed by two team members, and 49 were reviewed by one team member. In addition to reviewing GOs, we reviewed strategic planning reports and police reform legislation passed by the Albany Common Council (e.g., BWCs, Right to Know Identification Legislation, and Citizen Police Review Board proposals).⁷

Interviews

The audit team conducted 24 semi-structured interviews. Of those interviews, 12 were with APD personnel, 2 with former APD personnel, and 10 with community leaders and members. Organizations represented by community members included the Albany Community Police Advisory Committee, Community Police Review Board, New York State Office of Mental Health, Center for Law and Justice, Youth FX, Common Council, Red Bookshelf, Upstate New York Black Chamber of Commerce, and A Block at a Time. These interviews focused on gaining a better understanding of policing practices in Albany, as well as culture, leadership, and community policing approaches for APD.

Our interviews with APD personnel included command staff, supervisors, line-level officers, and non-sworn personnel, and they included recently promoted personnel, School Resources Officers (SROs), training unit personnel, Neighborhood Engagement Unit (NEU) personnel, anti-violence coordinators, and personnel from the Professional Standards Bureau. The personnel's time with APD ranged from less than 2 years to more than 8 years. The audit team also virtually attended various Community Collaborative Working Group meetings, as well as one Community Police Review Board meeting.

Quantitative data

Our data analysis focused on eight areas: calls for service, traffic stops, arrests, field interviews, use of force, community complaints, civil rights lawsuits, and department personnel. We analyzed data from 2015–2020 when possible. APD experienced a data loss affecting several internal databases, resulting in the loss of all records from 2018 related to use of force and complaints. For each of these data sources, we analyzed data from 2015, 2016, 2017, 2019, and 2020 year-to-date. The audit team conducted descriptive analysis of all datasets, supplementing with statistical comparison analysis such as chi-square tests and propensity score matching when appropriate. There were no data related to recruitment and hiring, so we were unable to conduct detailed analysis on those areas; instead, we conducted analysis on current personnel. The findings from our analyses complemented

⁷ Appendix N includes a list of the specific General Orders and other documents the audit team reviewed.

our reviews of the documents provided, including policies, proposed legislation, CPRB proposals, and civil rights lawsuits.

Overview of the report

This report contains seven sections. For each section, we discuss APD's policies and procedures in relation to the various topical areas: calls for service and deployments, traffic stops, patrol operations, the complaint process and civil rights lawsuits, use of force, community policing practices, recruitment, hiring, retention, oversight and accountability, and training. In each section, we provide a summary of the overall themes we identified in our review, an overview of the data sources and analysis relevant to that topic, and the resulting findings and actionable recommendations for the APD.

In addition, the report includes four appendices. Appendix A lists all acronyms used in the report, with associated definitions. Appendix B collates resources and references to peer agencies to assist the City and APD in implementing the recommendations in the report. Appendix C provides a complete list of data the audit team reviewed. Appendix D includes a table of all findings, recommendations, and the audit team's suggested timeline for implementation as well as our assessment of what types of resources will be required for implementation.

Section 1: Patrol Operations, Deployments, and Traffic Stops

The first section discusses our assessment of the various policies and procedures for patrol operations, including deployments for quality of life complaints, code violations, and instances of violence, as well as traffic stops. First, we discuss the data we reviewed and the subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through interviews, document review, and data analysis, the audit team discovered the following key themes:

- APD needs improved data collection procedures for traffic stop data.
- Prior to the deployment of BWCs to detective personnel and future units, APD should update its BWC policy to reflect emerging best practices.
- Statistical differences by outcome are present in arrest data when comparing white community members to Black community members, further fueling community concerns about resisting arrest charges.

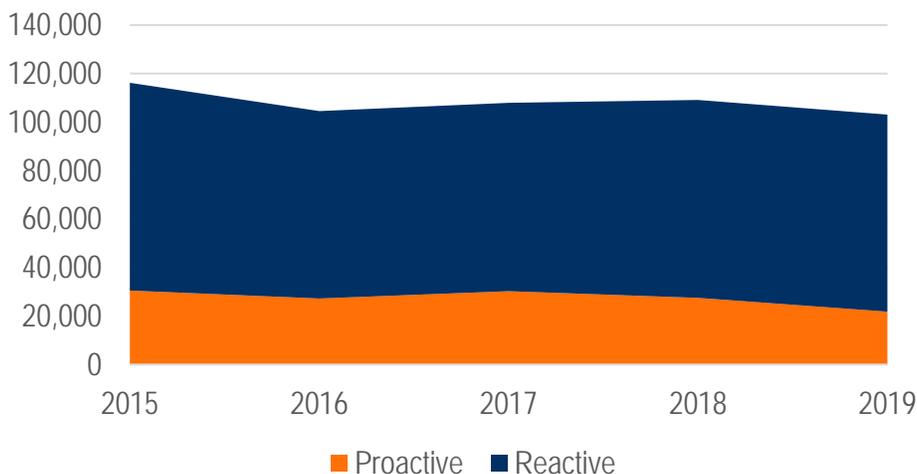
Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected from interviews, a review of APD policies, and administrative data provided about calls for service, traffic stops, arrests, and field interviews.

Calls for service

Between 2015 and 2019, APD personnel responded to 540,845 proactive (officer-initiated) and reactive calls. Figure 1 illustrates the trend over time as well as the relative ratio of proactive and reactive calls. The number of calls has declined slightly over time, while the relative ratio remained generally steady until 2019, averaging 2.6 to 3.0 reactive calls per proactive calls from 2015–2018, but 3.7 reactive calls per proactive calls in 2019.

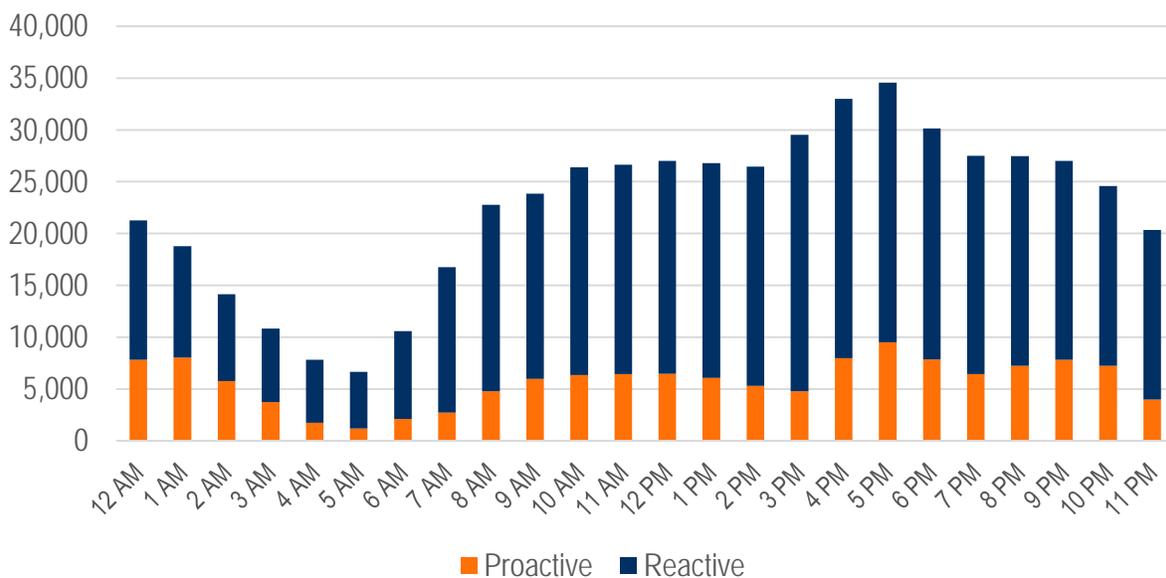
Figure 1. Calls over time



Source: Albany Police Department.

Figure 2 provides information about calls by time of day, broken out by proactive and reactive calls. As is typical in many law enforcement agencies, call volume peaks in the early evening and is at its lowest in the early morning hours.

Figure 2. Calls by time of day



Source: Albany Police Department.

APD responded to 126 call types during the five years considered in this analysis. In Figure 3, we display the number of calls by type for call types with more than 10,000 incidents in that period.⁸ The most common call types include the following: getting a report, traffic stops, check on a subject, detail (an administrative code used when officers are engaging in tasks that will not involve contact with community members), and responding to auto accidents involving property damage. Of note, APD’s “other” category for call types falls within these top 16 call types by volume.

Figure 3. Most frequent call types

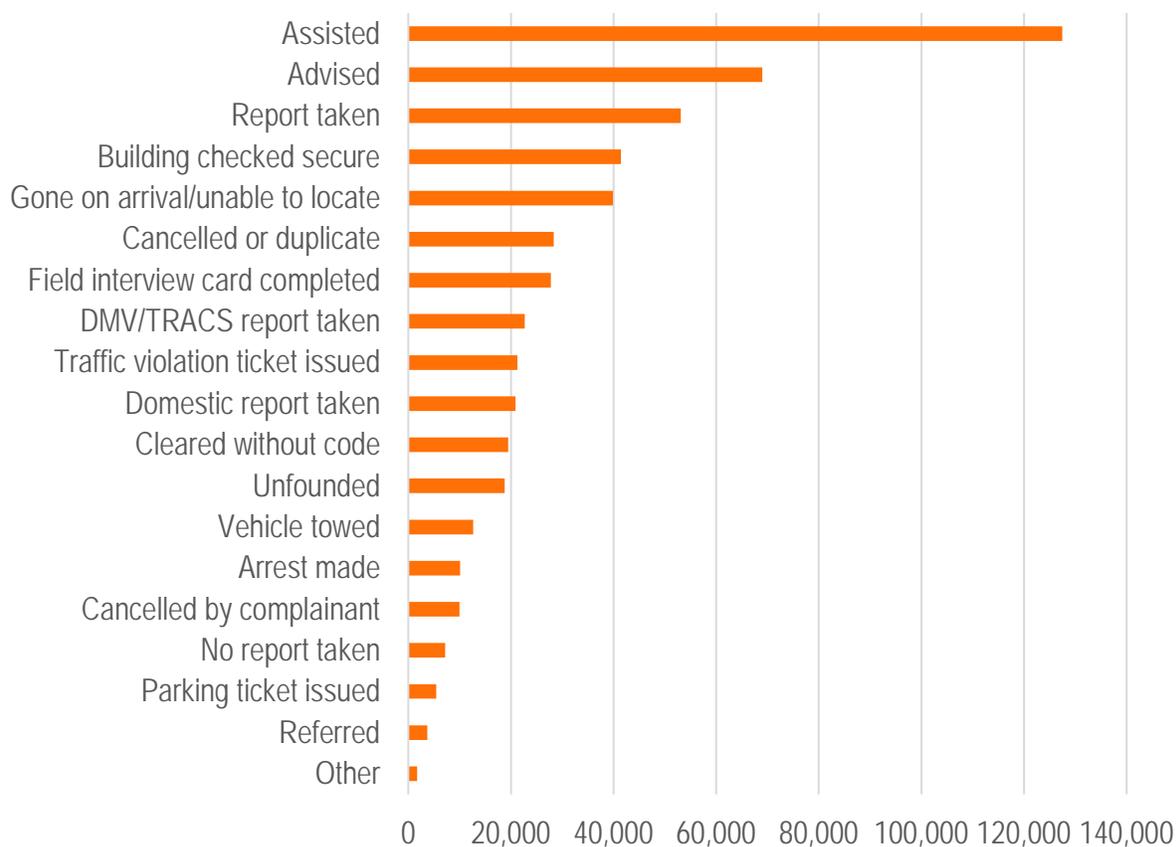


Source: Albany Police Department.

APD also tracks the disposition of calls using an internal system of numerical codes associated with definitions. For security reasons, we do not disclose numerical codes in this report, instead including only the definitions (Figure 4). For data visualization purposes, we group the least frequent disposition types as “other.” These include juvenile contact card completed (843 calls), administrative and law enforcement sensitive (454), domestic arrest (398), supervisor requested (16), transport required (6), and domestic call type changes (5). The most common call dispositions include assisted and advised, followed by report taken, building checks, and gone on arrival outcomes.

⁸ The complete table of all call types and associated frequencies is available from the audit team upon request. Requests should be directed to the City Auditor’s Office.

Figure 4. Call dispositions



Source: Albany Police Department.

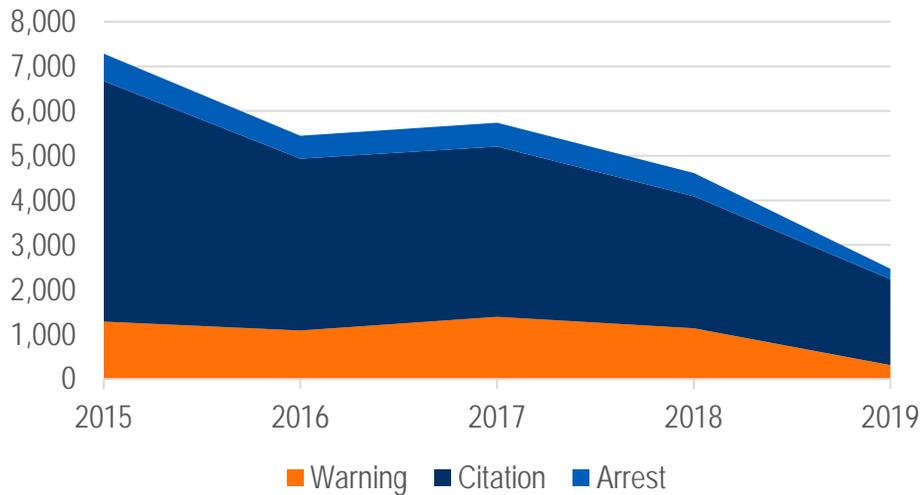
Traffic stops

APD provided data regarding traffic stops, which they catalog in three separate databases for stops resulting in field interview cards (warnings), stops resulting in citations, and stops resulting in arrests. Unfortunately, APD does not collect race data for stops resulting in citations because they use the New York State universal traffic ticket form, which does not include a field for race data. APD also does not geocode address data collected on their forms into latitude and longitude, so geographical analysis of stop locations is not possible. The audit team was therefore unable to conduct racial disparity analysis on traffic stop activity by APD. In our findings and recommendations below, we suggest that APD implement collection of race data in a consolidated traffic stop database so that this analysis can be conducted in the future. In this section, we provide information about characteristics of stops in general, and we break out stops ending in warnings and stops ending in arrests by race.

Figure 5 shows the total number of traffic stops annually over time, as well as the breakdown by traffic stop outcome. The number of traffic stops APD conducts annually has dropped dramatically in

the last five years, with 7,283 in 2015 compared with 2,469 in 2019 (a 66 percent decrease over five years). Over that period, the relative share of stops resulting in warnings, citations, and arrests has remained fairly steady, with a slight relative uptick of warnings compared to citations in 2017 and 2018. The majority of stops result in a citation, with 77.9 percent of stops resulting in a citation in 2019.

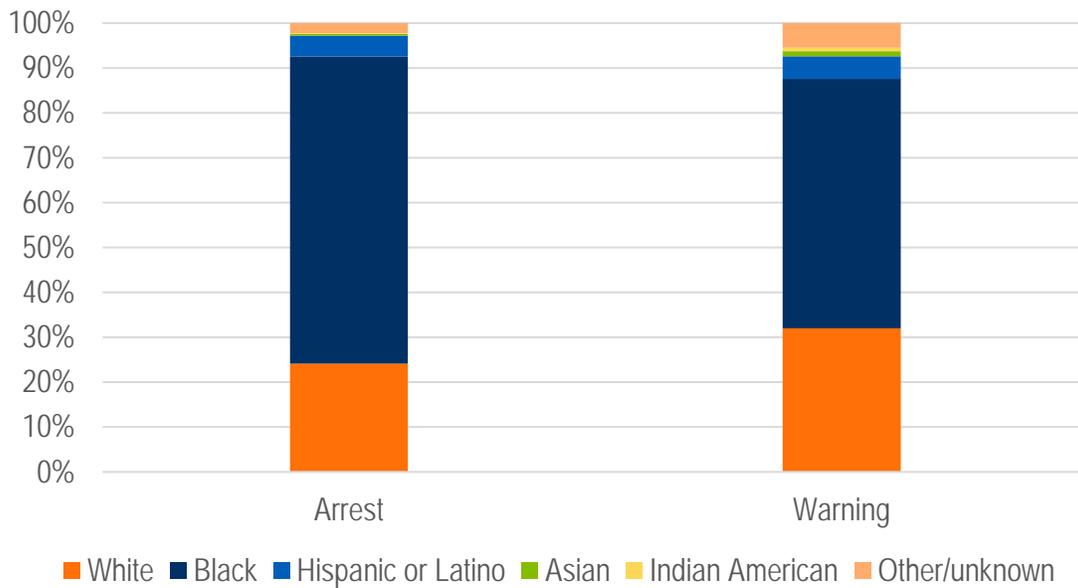
Figure 5. Traffic stops and outcomes over time



Source: Albany Police Department.

Figure 6 presents information about the race of the drivers involved in stops that ended in arrests or warnings. Black drivers are involved in stops ending in arrests relatively more frequently than they are involved in stops ending in warnings. Unfortunately, due to the lack of additional information in the traffic stop data, it is unknown whether this reflects differences in stop circumstances or results from biased practices.

Figure 6. Racial demographics for stops ending in arrests or warnings

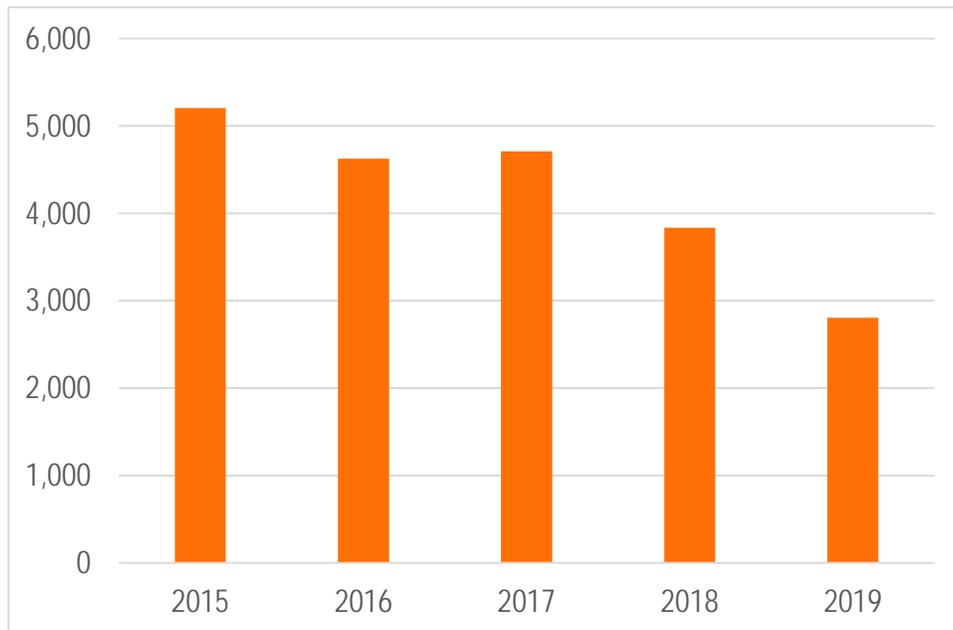


Source: Albany Police Department.

Arrests

The audit team reviewed arrests that occurred between 2015 and 2019 including the date of the arrest, race of the involved community member, and reason for the arrest. APD made 21,180 arrests during this time period. Figure 7 displays the trend in arrests over time. As with other measures of police activity the audit team reviewed, arrests have generally trended downward over the past five years.

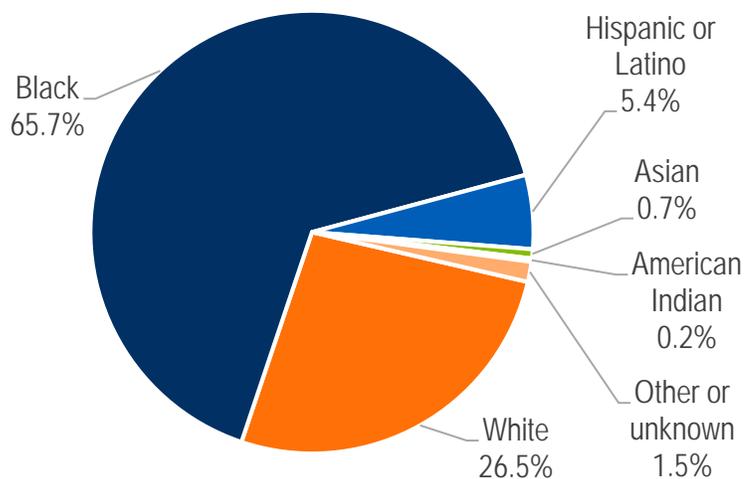
Figure 7. Arrests over time



Source: Albany Police Department.

The audit team also analyzed the race of arrested individuals, displayed in Figure 8. The majority of arrests were of Black community members at 65.7 percent. Of the other arrests, 26.5 percent were of white community members, 5.4 percent were of Hispanic or Latino community members, and less than 2 percent each were of Asian, American Indian, and other or unknown race.

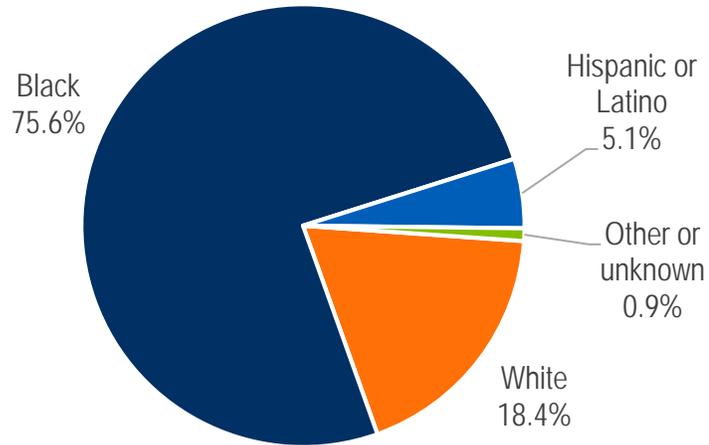
Figure 8. Racial demographics of all arrests



Source: Albany Police Department.

APD made arrests under 430 arrest categories during the period the audit team analyzed. The most common reasons for arrest included larceny (1,924 arrests), unlawful possession of drugs or alcohol (2,795), and assault with or without a weapon (1,044). During community interviews, the audit team was made aware of particular concerns regarding APD's use of the resisting arrest charge. APD made 217 arrests over the five-year period in that category. Figure 9 breaks down those arrests by race of the involved community member. Black community members are overrepresented in these arrests compared with all arrests. Without details about the circumstances of the arrests, we cannot say with certainty that this difference is entirely the result of race or bias, but these results are suggestive of those possibilities.

Figure 9. Racial demographics of arrests for resisting arrest

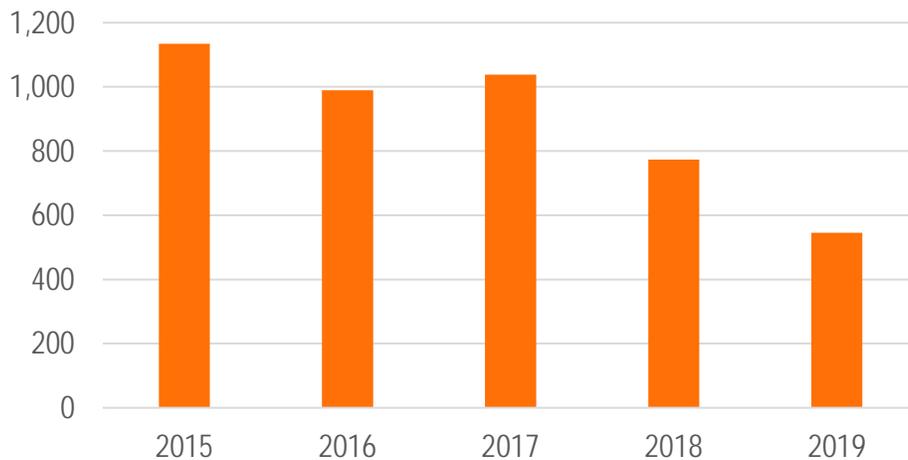


Source: Albany Police Department.

Field interviews

Between 2015 and 2019, APD personnel completed 4,480 field interview cards, documenting interactions with community members that did not result in an enforcement action. Field interviews, like traffic stops, have decreased over time, as shown in Figure 10.

Figure 10. Field interviews over time



Source: Albany Police Department.

Figure 11 displays the call types associated with field interviews for call types occurring more than 50 times in the field interview data.⁹ The majority (54 percent) of field interviews were the result of calls to check a subject. The next most common type, group annoying, makes up only 5.8 percent of the field interviews.

Figure 11. Field interview call types

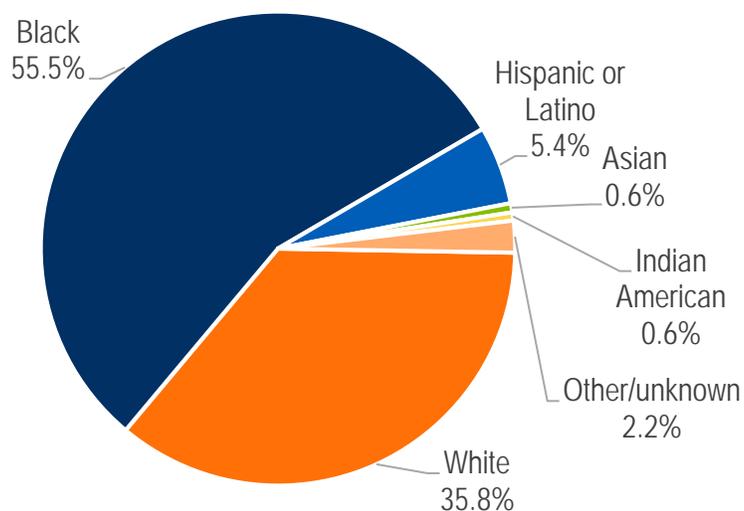


Source: Albany Police Department.

Figure 12 presents information about field interviews by the race of the involved community member. Field interviews involved Black community members the most, representing 55.5 percent of field interviews, with white community members being involved in 35.8 percent of field interviews.

⁹ The complete table of all call types and associated frequencies is available from the audit team upon request. Requests should be directed to the City Auditor's Office.

Figure 12. Racial demographics of field interviews



Source: Albany Police Department.

Findings and recommendations

Finding 1: APD does not collect race data for all traffic stops and does not include variables beyond date, time, address, age, sex, and sometimes race in their traffic stop databases.

APD's current traffic stop data is broken out into three systems, which vary by what variables are collected. These three systems are associated with stops that end in field interview cards (i.e., warnings), stops that end in citations, and stops that end in arrests. Storing traffic stop information in multiple systems hampers consistent data collection and therefore analysis—particularly analysis of disparities in traffic stop activity. The variables collected in the dataset for stops that end in citations do not include race data, prohibiting a detailed analysis of racial demographics of traffic stops or racial disparities in traffic stop activity, as noted above. APD officers do collect information about driver race for stops that end in warnings or arrests. In the audit's team understanding, officers either record their perception of the driver's race or ask the driver to self-identify.

In addition, APD does not collect much information about traffic stop characteristics, which can provide a clearer understanding of disparity in traffic stop activity. For example, if the reason for a stop is documented, agencies can break out stops by race based on stop reason, allowing them to identify whether members of ethnic or racial minority groups are more frequently stopped for certain violations. The inclusion of geographical data in the form of latitude and longitude for addresses facilitates analysis of where traffic stops are taking place and can reveal whether

primarily-minority neighborhoods are experiencing higher volumes of stops. Finally, documenting search decisions can help agencies understand whether disparities by race are present in these decisions, which can undermine constitutional policing.

Recommendation 1.1: APD should revise their traffic stop data collection protocols to achieve the following objectives:

- **Consolidate all traffic stops into a single data system**
- **Collect driver race data for all traffic stops, as it is collected for stops ending in warnings and arrests**
- **Record stop start and end time**
- **Record stop latitude and longitude**
- **Record the reason for the stop in a closed response (dropdown menu) format**
- **Record the reason for the citation or the arrest, as applicable, in a closed response (dropdown or checkbox menu) format**
- **Record whether a search was performed during the stop, the type of search (e.g., consent search, search incident to arrest, search under plain view doctrine, inventory search during vehicle impoundment), and whether a seizure resulted from the search**

Finding 2: APD's traffic stop activity has decreased substantially in the last five years.

APD has seen a marked decline in traffic stop activity over the last five years, with traffic stops in 2019 being less than half the volume of stops completed in 2015. During interviews, the audit team heard that patrol officers rarely engage in traffic stops, seeing them primarily as the responsibility of the specialty traffic unit. Agencies also can experience decreases in traffic stop volume when officers are less inclined or motivated to engage in proactive policing practices. Traffic safety is an important issue to many communities, and neighborhoods and community groups often value traffic enforcement as a way of keeping their children and communities safe. Additionally, as APD is aware, there is a nexus between traffic enforcement and crime reduction, as hypothesized and evaluated in the Data-Driven Approaches to Crime and Traffic Safety model. The current levels of traffic stops are not necessarily inappropriate; however, APD should ensure it understands the decline and is still meeting community needs for traffic safety.

Recommendation 2.1: APD should assess why traffic stop activity has decreased by more than half in the past five years and ensure the department is being responsive to community concerns about traffic safety and enforcement.

Finding 3: The majority of APD traffic stops result in a citation.

Most traffic stops APD officers conduct result in a citation, as opposed to a warning (or in rare cases, an arrest). More than 75 percent of stops in 2019 ended in a citation. High citation rates can be detrimental to police relationships with the community because they erode trust, lead to feelings of

persecution, and have immediate and lingering financial impacts. A recent large-scale study of traffic stops in North Carolina found that 65 percent of stops end in citations, and work with the Maricopa County, Arizona, Sheriff's Office found that 52 percent of stops end in citations; work under the COPS Office Collaborative Reform Initiative found rates of 62, 65, and 73 percent in Fayetteville, North Carolina; St. Louis County, Missouri; and San Francisco, California, respectively.¹⁰ For individuals who must maintain clean driving records for their employment, tickets can threaten community members' livelihoods. Citations are often perceived as a revenue generating mechanism for local government (rightfully or wrongly), further reducing their legitimacy in the eyes of the community. Many agencies nationwide are now encouraging officers to view traffic stops as an educational opportunity and a chance for positive community engagement. In these initiatives, officers are encouraged to provide warnings for all non-egregious offenses, provide informational material if available, develop programs to defer tickets for vehicle repair-related stops, and take time during traffic stops to connect with community members and engage in positive community interactions.

Recommendation 3.1: APD should review traffic stop policies and procedures and assess implementing an education-based approach to traffic enforcement that emphasizes warnings over citations.

Finding 4: APD's "other" call type category represents a substantial number of calls, and APD has 48 categories with fewer than 100 calls over five years.

In the audit team's analysis of proactive and reactive calls, we noted that APD uses an "other" call type category with high frequency. This call type was used 17,997 times, representing 3.3 percent of all calls, and it was the 11th most frequently used category. The use of an "other" category for such a high volume of calls diminishes transparency and can result in community mistrust of police activity and data practices, as noted in meetings of the Albany Police Reform and Reinvention Collaborative. It also hinders call data analysis since it is unknown whether these calls are generally similar or represent a diverse set of responses. In counterpoint, APD maintains 48 call type categories that, on average, are used less than 20 times a year, including 27 categories that are used, on average, once or less per year. Based on a review of these categories, some appear to be codes used for

¹⁰ Baumgartner, F. R., Epp, D. A., & Shoub, K. (2018). *Suspect citizens: What 20 million traffic stops tell us about policing and race*. Cambridge, UK: Cambridge University Press.

Rodriguez, D., Kunard, L., Johnson, W., LaRochelle, J., & Thorkildsen, Z. (2015). *Assessment report on the Fayetteville (North Carolina) Police Department. Collaborative Reform Initiative*. Washington, DC: Office of Community Oriented Policing Services.

Norton, B., Hamilton, E. E., Braziel, R., Linskey, D., & Zeunik, J. (2015). *An assessment of the St. Louis County Police Department. Collaborative Reform Initiative*. Washington, DC: Office of Community Oriented Policing Services.

COPS Office. (2016). *An assessment of the San Francisco Police Department. Collaborative Reform Initiative*. Washington, DC: Office of Community Oriented Policing Services.

Thorkildsen, Z., Bryson, B., Wohl, E., Carleton, B., & Lafferty, J. (2020). *Maricopa County Sheriff's Office Traffic Stops Analysis Report: January 2019–December 2019*. Phoenix, AZ: Maricopa County Sheriff's Office.

administrative purposes that could potentially be combined, others might be folded into other code categories, and some could reasonably be included in the “other” category.

Recommendation 4.1: APD should analyze calls categorized under the “other” category and determine whether these calls should have been included in existing categories and whether additional categories are needed to capture information from these calls.

Recommendation 4.2: APD should consider whether relatively low use call types (representing less than 20 calls per year on average) could be consolidated with other call types, such as the “other” category.

Finding 5: Community members have concerns about disparate arrests for quality of life issues and resisting arrest charges.

Although the data provided by APD do not allow the audit team to conclude whether there are disparate arrests for quality of life issues in white communities versus minority communities, we determined through our interviews that this is a common concern in the community. Quality of life concerns should be treated equitably across all neighborhoods in the city, and the department should take action to ensure that quality of life charges are not being levied disproportionately in minority neighborhoods or against members of racial or ethnic minority groups.

During the audit team’s interviews with community members, one recurring theme was concern about APD’s use of resisting arrest allegations. Specifically, community members expressed concerns that these charges were made during incidents in which no arrest was taking place, and they expressed confusion about how such a charge could apply if not during the course of an arrest. Community members were concerned that this charge is being used to target minority community members during inapplicable incidents. In the audit team’s analysis of reasons for arrest, we were able to verify that Black community members are represented disproportionately in arrests for resisting arrest, compared with overall arrests. We cannot state with certainty that this disparity is entirely due to bias, but it is suggestive and warrants further investigation.

Recommendation 5.1: APD should review all incidents involving resisting arrest charges or allegations, including a thorough review of body-worn camera footage, with particular attention to potential racial disparities. If necessary, APD should issue additional guidance and training about the use of the resisting arrest charge to ensure it is being used correctly.

Recommendation 5.2: APD should review procedures on quality of life issues and ensure that no disparate actions are being taken against minority communities.

Finding 6: Patrol officers are aware of policy related to high-risk stops (stops in which the officer knows or reasonably believes the driver or other vehicle occupants are armed and dangerous); however, some lack experience in these particular events.

APD’s policy on high-risk events is very thorough and clear. Through interviews, we learned that some officers are not as fluent in this process as others are. In particular, interviewees noted that some officers do not know the protocol for handling high-risk stops and could benefit from more

training and learning opportunities in this area. Handling high-risk stops properly is important to de-escalate situations that could arise and therefore increase the trust that the community has in the police department.

Recommendation 6.1: APD should have patrol supervisors discuss high-risk stops on a regular basis at roll call to ensure that new and veteran officers are consistently receiving a refresher on protocol.

Finding 7: APD conducts evaluations when their Emergency Services Team (EST) is deployed.

In Section X.A.5.a of General Order 3.9.15 *Special Operations: Emergency Services Team*, policy states that an After-Action Review is to be completed within 48 hours of an Emergency Service Team's activation. According to policy, an EST member completes this review immediately after the activation. An evaluation of the activation is important; however, some situations may call for someone other than a member of the team evaluating the operation.

Recommendation 7.1: APD should implement a system in which larger and more high-profile operations are evaluated by an outside evaluator who did not participate in the operation.

Finding 8: APD has fully deployed BWCs to patrol personnel and is in the process of deploying BWCs to detective personnel.

BWCs are an important tool in policing across our nation, especially regarding critical incidents. With this technology, departments are able to bridge gaps with the community, hold officers accountable, detail training curriculum with scenario-based training, and much more. Recently, there has been an emerging trend across the country to outfit all patrol and detective personnel with BWCs.

Having been selected as one of the inaugural departments to receive funding to implement BWCs under the Bureau of Justice Assistance (BJA) Policy and Implementation Program, Albany received \$133,305 in 2015 to purchase 215 BWCs. As of October 2020, all patrol and traffic safety officers in APD, including NEU officers, are trained in the use of BWCs and activate their BWCs on all calls for service and self-initiated citizen engagement. Additionally, APD requires BWC activation when in emergency vehicle operation mode (colloquially, "running lights and sirens"), when engaged in a pursuit or transport, during all enforcement activities, when administering field sobriety tests, and at the discretion of the officer or supervisor (unless otherwise unlawful).

APD has been planning to implement BWCs for all detective personnel and anticipates rolling out training for these personnel before the end of 2020.

Recommendation 8.1: APD should continue its practices related to BWC use and activation for patrol and traffic safety personnel.

Recommendation 8.2: APD should roll out BWCs in the detective unit as efficiently and expeditiously as possible.

Finding 9: No policy guidance covers how officers are to use the live stream feature on their BWCs.

The Axon View live streaming feature is a fairly new feature for BWCs. This view can be used in group gatherings and events to film the entire operation while also giving supervisors the ability to view the video in real time. It is important that policy clearly states when this feature will be used.

Recommendation 9.1: APD should clearly state in General Order 3.2.15 *Body Worn Cameras* how and when the Axon View should be used for live streaming purposes.

Finding 10: APD BWC policy lacks established compliance and auditing procedures.

In Section I.E.3 of General Order 3.2.15 *Body Worn Cameras*, policy states that there are different levels of random review for sergeants and lieutenants. There is a strong argument for randomized reviews of videos every month to ensure that supervisors do not regularly choose the same type of videos to review (e.g., the shortest videos, incidents known to have straightforward outcomes). It is also important that the system of the review process for each supervisor be properly documented.

During supervisor's monthly reviews, it is important that supervisors conduct a high-level review to ensure that all videos have been properly tagged. In section III.H of General Order 3.2.15 *Body Worn Cameras*, policy states that recordings captured on BWCs and uploaded to the BWC server shall be tagged in the most appropriate category listed; however, no timeframe is designated for when officers should complete this task. Interviewed personnel expressed that supervisors send out an email to remind officers to finish tagging videos; however a specific timeframe should be designated in policy.

Recommendation 10.1: The supervisory review of BWC footage should be a randomized process in which the supervisors are given the exact videos they are to review.

Recommendation 10.2: APD should consider adding language to their BWC policy stating that officers are to tag their videos immediately after a call before moving on to a future call.

Finding 11: Towing and removing vehicles in the City that are abandoned are the sole responsibilities of a small unit.

In Section I.D of General Order 3.4.30 *Vehicle Towing Procedures*, policy states that the removal of abandoned/junk vehicles shall typically be the responsibility of the NEU beat officer. The NEU unit's main duties should align with community policing practices and be centered on engagement within their specific beats. The unit is very small, especially with recent restructuring, and they need to be able to devote their entire shifts to improving and enhancing community engagement. Because the unit is small and focused on aligning with community policing and enhancing community interactions, this responsibility should not fall on NEU beat officers.

Recommendation 11.1: APD should consider shifting duties to the traffic unit for the removal of abandoned/junk vehicles to ensure more time for the NEU beat officers to engage with their community.

Section 2: Complaints and Civil Rights Lawsuits

The second section discusses our assessment of the various policies and procedures for complaints, both external and internal, as well as civil rights lawsuits filed against APD personnel. First, we discuss the data we reviewed and our subsequent analysis. We then detail our findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

- Black community members initiate the majority of external complaints and civil rights lawsuits filed.
- Personnel do not fully understand the community complaints process or how or when possible disciplinary actions could take place.
- The community complaints process is convoluted and poorly understood by community members, leading to mistrust and a perceived lack of procedural justice.

Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected during interviews, a review of APD policies, and administrative data provided about community complaints, as well as data about civil rights lawsuits filed regarding APD actions.

Community complaints

The Community Police Review Board (CPRB), formally known as the Citizen's Police Review Board, was established in 2000 and was designed to bridge a gap between the community members of Albany and the APD. The board consists of nine members, appointed by the Mayor and the Common Council. The CPRB plays an essential role in the review of complaints received by the Office of Professional Standards (OPS) at APD. Before the CPRB receives a complaint to begin the review process, OPS assigns a complaint number and conducts their review. At that point, OPS hands off the complaint information to the Government Law Center at Albany Law School (GLC), which handles administrative work for the CPRB. The CPRB reviews the complaint and will sometimes assign a monitor to review the complaint if it involves allegations of civil rights violations or other serious misconduct. The assigned monitor, if one is chosen, will evaluate whether the OPS review was thorough, accurate, and fair. Upon completion of these processes, the GLC will notify the complainant to invite them to a public forum where the CPRB will publicly present the complaint and their findings.

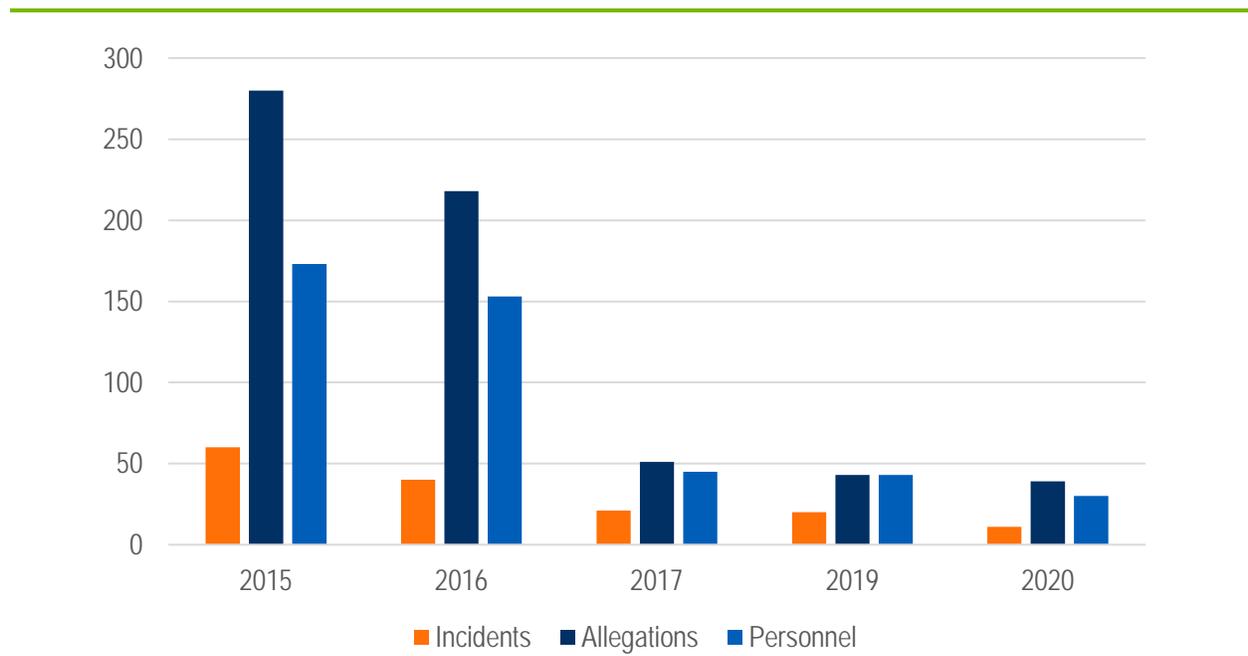
The audit team reviewed data about complaints from community members submitted to APD between 2015 and October 2020, omitting 2018 because of the previously mentioned data loss APD experienced. Over that period, APD received 152 individual complaints, which included 631 separate allegations of misconduct made by individual community members.¹¹ Each individual complaint case can potentially include multiple officers, multiple community members, and multiple allegations against each officer from multiple community members.

These complaints included 444 unique combinations of incident and involved officer and 177 unique combinations of incident and community member. Put another way, each individual complaint included, on average, allegations against 2.9 officers and 1.2 community member complainants. Based on combined first and last names, 203 unique officers received complaints in this time period, with 114 receiving multiple complaints, and 5 having more than five complaints over the time period. Based on combined first and last names, 159 identified community members submitted complaints (four complaints were submitted anonymously), and 9 submitted more than one complaint.

As shown in Figure 13, complaints have decreased over time. In addition, the average number of allegations included in an individual complaint has decreased; this ratio was highest in 2016 at 5.5 allegations per complaint and lowest in 2019 at 2.2 allegations per complaint. Year to date in 2020, the average number of allegations per complaint is 3.5. In APD's complaint process, community members submit complaints, and APD determines the number of explicitly stated and implied allegations present in the complaint narrative.

¹¹ If multiple community members made the same allegation, that allegations would be double counted in this total because of the structure of APD's complaint data.

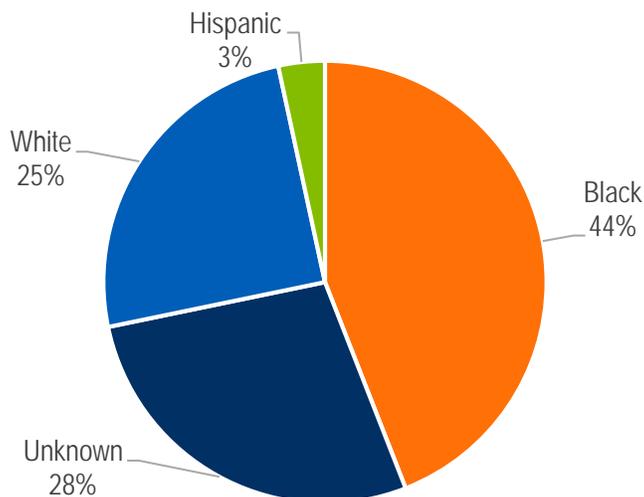
Figure 13. Complaints, allegations, and involved officers over time



Source: Albany Police Department.

As shown in Figure 14, the plurality of complaints involved Black complainants. However, 28 percent of complainants did not provide race data.

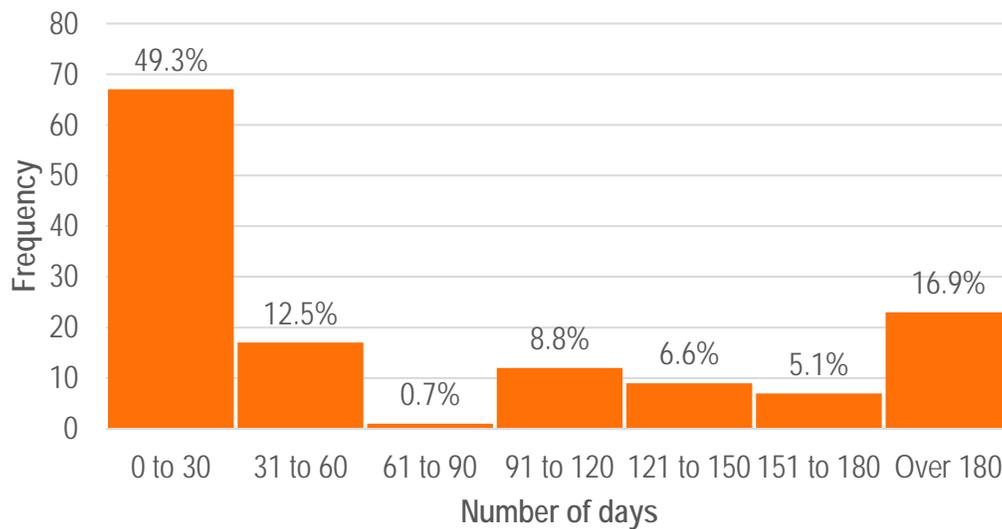
Figure 14. Complainant race and ethnicity distribution



Source: Albany Police Department.

Figure 15 indicates the length of time from complaint intake to final disposition. This analysis is based on the 136 incidents with dispositions as of October 2020. Nearly half of complaints were closed within 30 days. These 66 cases included 120 allegations. Of those allegations, the most common outcomes were office cases, no finding, and satisfied. Forty-one were closed as office cases, meaning that an APD supervisor was notified of a complaint, but the community member never submitted the complaint form to allow for an investigation. Twenty-seven allegations were closed as no finding. No finding outcomes have four possible underlying causes: (1) the complainant fails to produce additional required information, (2) the complaint is redirected to another agency, (3) the complainant is unavailable for necessary clarifications, or (4) the officer is no longer employed with APD. Another 18 allegations were closed as satisfied, meaning that the complainant indicated that having reported the complaint to the supervisor, they did not desire any further action beyond a supervisory conversation with the employee.

Figure 15. Number of days to complaint disposition

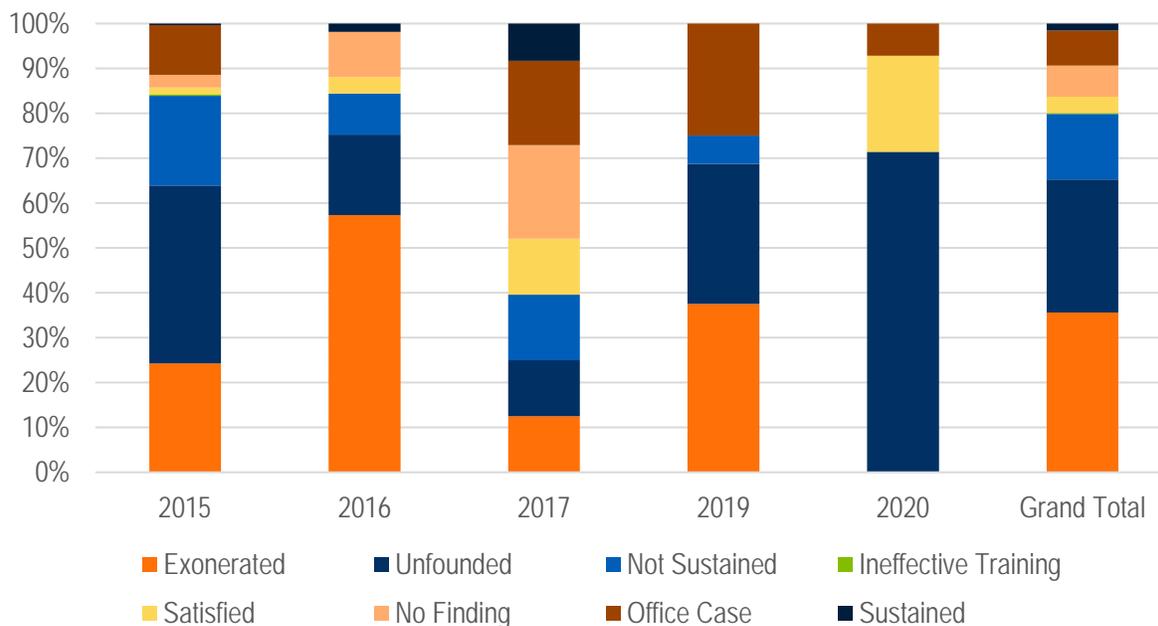


Source: Albany Police Department.

In Figure 16, we present the disposition of allegations over time for the 576 allegations with dispositions by October 2020.¹² We found no obvious time trends or patterns in outcomes from complaint allegations over time.

¹² For the purposes of Figure 16, to condense infrequently used categories, we combined mediation (N=1) with satisfied, violation of policy (N=4) with sustained, and within policy (N=6) with exonerated.

Figure 16. Allegation dispositions over time

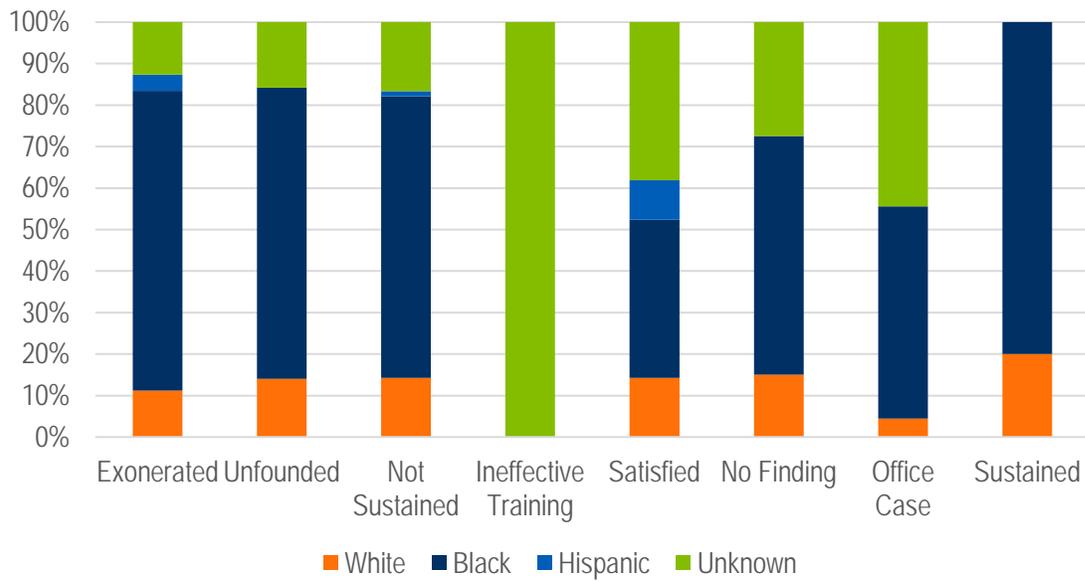


Source: Albany Police Department.

The audit team also considered the interaction between the race of the complainant and allegation dispositions. To provide a clearer picture of the ratio between outcomes for complainants of known race or ethnicity, Figure 17 presents the breakdown of allegation dispositions by the race of the complainant including cases in which the complainant race is unknown; Figure 18 presents this information excluding cases in which complainant race is unknown. When comparing outcomes specifically for white complainants versus Black complainants (which can be most clearly seen in Figure 18), there do not appear to be systematic differences in outcome by race. Statistical testing of outcomes for white versus Black complainants supports this finding, showing no statistically significant difference in the distribution of allegation outcomes between those race categories (Fisher’s exact test, $p = 0.598$; Pearson’s chi-square test, $p = 0.709$).¹³

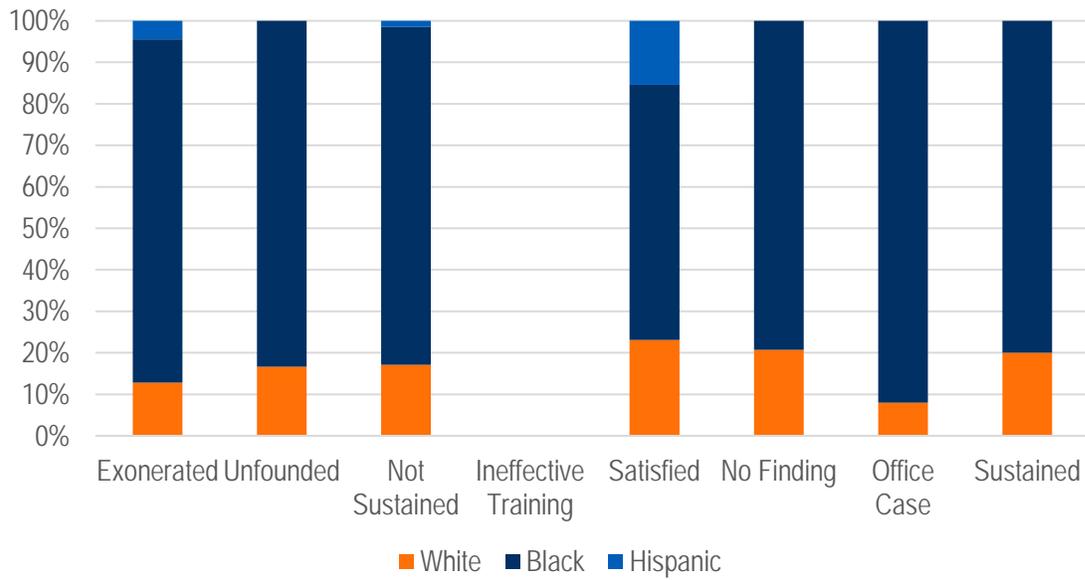
¹³ Fisher’s exact test is more appropriate in this case because of the small N present in conditions; however, it is typical to also present the results from the chi-square analysis for comparison.

Figure 17. Complaint allegation dispositions by race, including unknown



Source: Albany Police Department.

Figure 18. Complaint allegations by race, excluding unknown



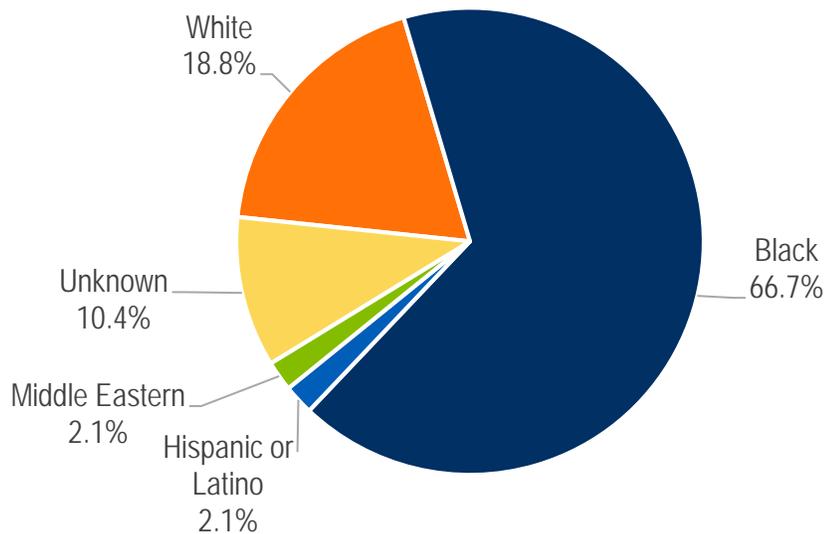
Source: Albany Police Department.

Civil rights lawsuits

The audit team reviewed data about the 48 lawsuits filed against the City regarding alleged civil rights violations by APD that had activity between 2015 and October of 2020. These included lawsuits with filing dates ranging from 2013 to 2020. Within the scope of the audit, our team did not review the legal details of these cases, nor did we attempt to characterize the allegations in terms of legal grounds or severity. It is important to understand our analysis in that context, since patterns in timelines to conclusion, case outcomes, and settlement amounts are influenced by legal and extralegal factors not included in the scope of this audit.

As shown in Figure 19, the majority of civil rights lawsuits involving APD were filed by Black complainants, representing 66.7 percent of cases. White complainants represented 18.8 percent of cases, with 10.4 percent of cases having complainants of unknown race or ethnicity, and 2.1 percent each involving Middle Eastern or Hispanic or Latino complainants.

Figure 19. Race of complainant in civil rights lawsuits involving APD

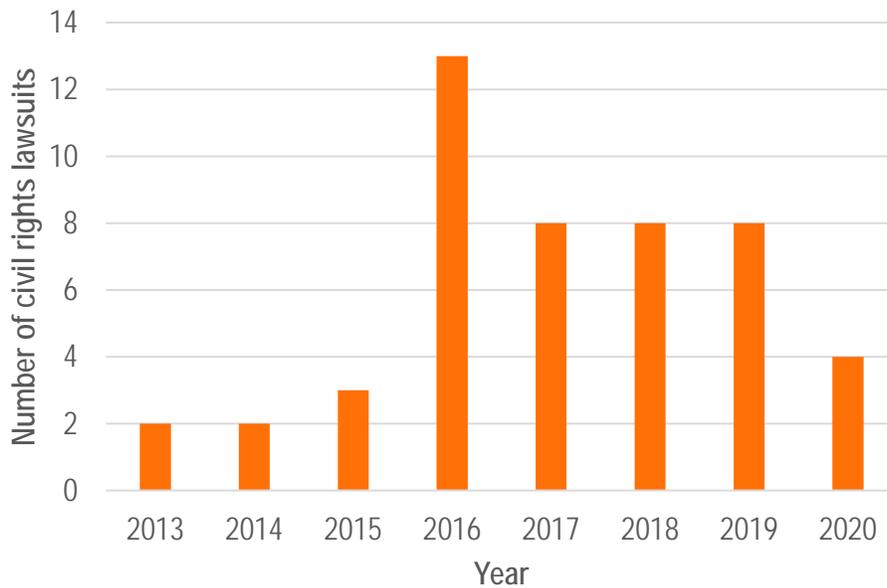


Source: City of Albany.

In Figure 20, we describe the number of civil rights lawsuits over time. We include four lawsuits from 2013 and 2014 in our data because they had actions in the analyzed timeframe ranging from 2015 to October 2020; we do not include those lawsuits in Figure 20 because those totals do not represent the entire number of lawsuits in those years. Within the past five years, the highest number of suits occurred in 2016, totaling 13 lawsuits. In reviewing details of the cases in that year, we found that

four suits were filed against the same APD officer in that year, related to four separate incidents. That officer is no longer employed with APD, based on the personnel data they provided.

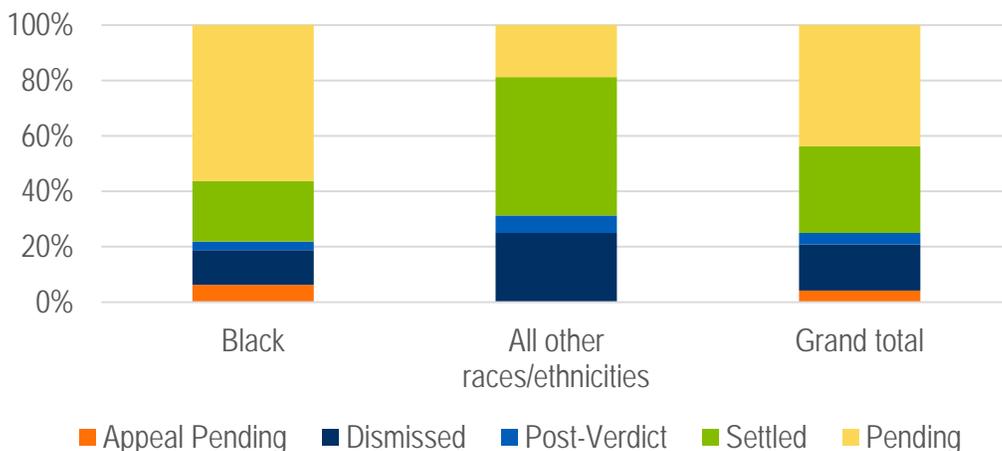
Figure 20. Civil rights lawsuits involving APD filed over time



Source: City of Albany.

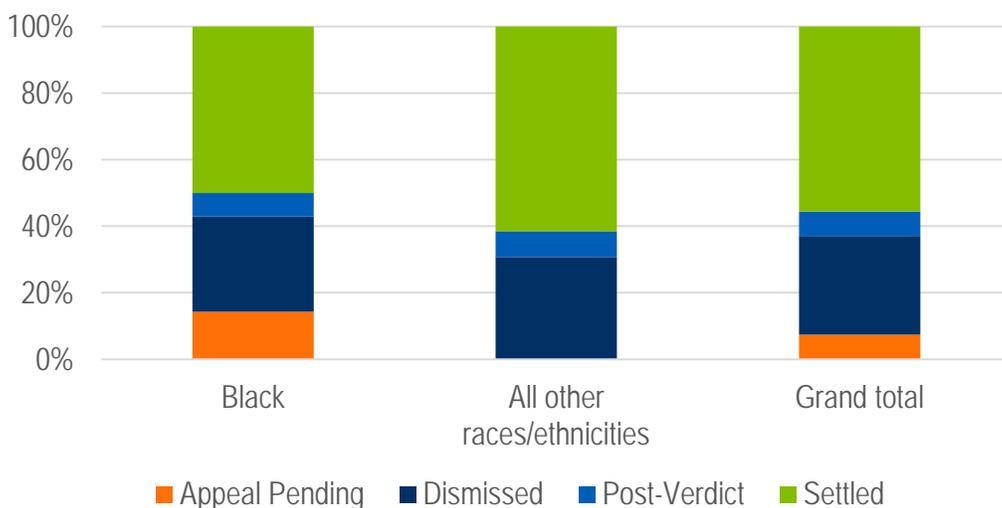
Figure 21 and Figure 22 describe outcomes from the lawsuits broken out by those involving Black complainants versus those involving complainants of other races or ethnicities. We consider just these two categories since the total number of suits involving any other single racial designation is so small. We caution that these figures do not consider the totality of circumstances associated with the lawsuits; therefore, other aspects of the cases could explain the patterns present. When considering the race of the complainant alone, we found that more cases remain in pending status for Black complainants. The filing dates for these cases range from October of 2016 through August of 2020 and include three outstanding cases from 2016, five from 2017, four from 2018, and nine from 2019 and 2020 combined. When considering only cases with final dispositions, as in Figure 22, we found that a somewhat smaller percent of cases with Black complainants were settled. However, because of the small number of cases included in this analysis (21 cases of the 48 analyzed had achieved final dispositions), we are unable to determine whether this difference is statistically significant.

Figure 21. Lawsuit outcomes by race of complainant, including pending outcomes



Source: City of Albany.

Figure 22. Lawsuit outcomes by race of complainant, completed lawsuits



Source: City of Albany.

When considering lawsuits that ended in settlements, the average settlement amount is considerably higher for Black complainants than for those of other races and ethnicities, as shown in Table 1.

Table 1. Average civil rights lawsuits settlement amounts by race of complainant

Race/ethnicity of complainant	Average settlement
Black	\$129,500
White	\$6,800
Hispanic	\$7,500
Unknown	\$4,500
Overall	\$63,800

Source: City of Albany.

Findings and recommendations

Finding 12: APD personnel do not have a clear understanding of the complaint process.

During interviews, officers expressed a lack of clear understanding of the APD community complaint process as described in General Order 2.4.05 *Office of Professional Standards: Complaint Procedures*. Many officers believed it was possible for complaints to be logged against them without them being notified. In section II of the General Order, it states that the department should issue a written statement of the allegations; however, officers are unsure whether and when they will be notified of a complaint against them. Officers also must know how they are to deliver their report when making an internal complaint within their chain of command. Policy within General Order 2.2.15 *Harassment in the Workplace* states that they are encouraged and justified to deliver this report to the Office of the Chief of Police, but then it later states that they should give the report to the Office of Professional Standards.

Recommendation 12.1: APD should clearly define the process of informing department employees of complaints against them and their required actions and associated rights.

Recommendation 12.2: APD should clearly define the process for officers to deliver internal complaints when the complaint is within their chain of command.

Finding 13: APD would benefit from including additional fields in their complaint database to facilitate more detailed analysis of the complaint process and outcomes and allow the identification of potential disparities in complaint adjudication.

The current APD complaint database includes information such as the officer involved in the complaint, the community member submitting the complaint, demographics about that community member, a complaint narrative, a complaint disposition, and a timeline. However, it does not include notation of the type of allegation, the severity of the allegation, and the specific corrective action taken with the involved officer for sustained complaints and others resulting in corrective actions. By including these fields, APD would be better able to understand whether certain allegation types and allegations by severity are being handled consistently, especially in relation to the race of the complainant. These data would enable comparisons of similar complaints involving white or Black

community members to identify whether disparities are present in the disposition. They would also enable comparisons of corrective actions for similar complaints to identify disparities in the disciplinary process for officers in the complaint process.

Recommendation 13.1: APD should add fields in the complaint database to indicate the allegation type, severity, and specific corrective action taken in response to sustained complaint allegations.

Finding 14: APD’s policy on the investigation of complaints does not include definitions for “office case” and “satisfied” outcomes.

General Order 2.4.05 *Office of Professional Standards: Complaint Procedures* includes definitions for outcomes of complaint investigations, including the outcomes of exonerated, unfounded, not sustained, ineffective policy or training, sustained, no finding, and mediated. However, APD now also uses two additional outcomes: office case and satisfied. These options are not defined in policy.

Recommendation 14.1: APD should revise General Order 2.4.05 to include definitions for the office case and satisfied outcomes.

Finding 15: APD’s policies for discipline are clearly described in its General Orders, include detailed processes and procedures, and include non-punitive options, progressive disciplinary consequences, and an appeals process. However, APD does not include a disciplinary matrix in the policy.

General Order 2.2.20 *Disciplinary Procedures* establishes clear policy and guidance about non-punitive and punitive disciplinary options and procedures in APD. The specific non-punitive options include counseling (oral or written) and training, while punitive options include oral reprimand/warning, written reprimand/warning, loss of leave credits, suspension without pay, demotion, and dismissal. APD’s policy clearly delineates an expectation that discipline should proceed in a progressive manner starting with oral reprimand and in accordance with the current Collective Bargaining Agreement.

A discipline matrix is a table outlining types of misconduct that warrant discipline, the default action to be taken for that misconduct, with noted adjustments based on the officer’s previous disciplinary incidents. The matrix is intended to reduce disparities in the application of discipline and improve transparency in the disciplinary process by establishing clear expectations. The use of a discipline matrix can support internal procedural justice in police agencies. It can also provide a benchmark for comparing actual discipline decisions, which can assist in identifying potential disparities based on ethnicity, race, or gender.

Recommendation 15.1: APD should develop a discipline matrix to ensure disciplinary decisions are fair and equitable for all personnel.

Recommendation 15.2: APD should regularly analyze discipline decisions in comparison with presumptive discipline options in the matrix and determine whether disparities emerge with respect to discipline based on officer ethnicity, race, or gender.

Finding 16: APD uses a Personnel Early Warning System (PEWS) to support employees using non-disciplinary referrals to incorporate positive correction actions to address performance issues before they become critical.

The use of early warning/intervention systems is common in policing, allowing agencies to monitor officers' behavior along key indicators to identify early signs of job performance problems and address them proactively using non-disciplinary procedures, such as counseling, supervisor intervention, and training referrals. These systems mitigate the risk of more serious performance issues through early intervention.

APD's PEWS system includes five indicators: use of force incidents, vehicle pursuits, vehicle collision (involving departmental vehicles), citizen complaints, and internal affairs investigations. General Order 2.4.15 *Personnel Early Warning System* describes the process for documenting these indicators, discusses supervisor review, and establishes thresholds for each individual indicator as well as the combined total. The current thresholds are as follows:

- Use of force: four incidents in a six-month period
- Vehicle pursuits: three incidents in a 12-month period
- Vehicle collisions: three incidents in a 12-month period
- Citizen complaints: three incidents in a 12-month period
- Internal affairs investigations: four incidents in a 12-month period
- Combined incidents: six incidents in a 12-month period

Recommendation 16.1: APD should review the current list of five indicators included in PEWS against best practices and peer agencies and consider expanding the list to include additional indicators that are less serious and may reflect stress and mental health early indicators, such as lateness or absenteeism and assaults or injuries on the job.

During this review, APD should also consider consolidating or redefining indicators that overlap; for example, citizen complaints and use of force incidents that generate an internal affairs investigation and result in a single incident being counted twice.

Recommendation 16.2: APD should review the current threshold values for each indicator against best practices, internal data, and peer agencies' methods for establishing thresholds.

Recommendation 16.3: APD should evaluate the effectiveness of PEWS interventions by tracking employee performance on relevant indicators after the officer receives counseling, training, or other interventions. APD should consider the use of an external evaluator to perform this analysis and the possibility of publishing the results to contribute to the knowledge base in the field regarding early intervention system effectiveness.

Finding 17: APD policy does not specify who investigates allegations of biased policing.

The duties of Office of Professional Standards detectives are described in General Order 2.4.00 *Office of Professional Standards: Duties and Responsibilities*; however, this policy does not designate who investigates allegations of biased policing. It is important to have this type of complaint thoroughly investigated by a designated unit, whether it is an external or internal complaint.

Recommendation 17.1: In General Order 2.4.00 *Office of Professional Standards: Duties and Responsibilities*, consider adding a statement under Section 1.B that Office of Professional Standards Detectives shall investigate allegations of biased policing.

Finding 18: Complaints submitted by community members and external parties go through many stages throughout the investigations process.

When external complaints are filed, the complaints move through a very lengthy investigation process. Community members expressed concern that they struggle to receive information on filed complaints and that complaints from years prior are still pending because of a backlog of complaints. To increase transparency and trust within the community, the external complaint process must become more streamlined, allowing for swift actions to be taken.

Recommendation 18.1: APD should review and revise the procedures for intake, investigation, and disposition of community complaints to streamline the process.

Recommendation 18.2: APD should publicize the complaint process widely so that the community is fully informed about how complaints are handled.

Finding 19: Community members are mistrustful of the APD complaint process.

Community leaders act as liaisons for community members who have complaints from interactions with the police department. Community members the audit team interviewed expressed concerns that many community members are mistrustful of the APD complaint process. Some community members fear retaliation if they submit a formal complaint, and therefore express their concerns informally to Common Council members or other community leaders to pass along on their behalf. However, these complaints are likely difficult for APD to investigate without contact with the complainant.

Many community members expressed concerns about the procedural justice of the complaint process. This was a recurring theme expressed during interviews, at meetings of the Albany Police Reform and Reinvention Collaborative, through community email input, and in written material provided by community organizations. Community members are not satisfied with the level of communication APD provides during the complaint process, with many indicating that after they made a complaint, they received no updates or further information from APD regarding progress on the investigation or the disposition of the complaint. The external complaint process should be a safe place for community members to file their issues without fear of retaliation against their family or friends, and community members should feel assured that their complaint will be taken seriously and they will be notified of the outcome.

Recommendation 19.1: APD should work with community leaders to revise the community complaint process to foster an environment in which community members feel safe filing a complaint and know that they will receive regular updates as well as notice of the final disposition of the complaint.

Recommendation 19.2: APD should follow up on “office case” and “satisfied” dispositions carefully to ensure that the community member who submitted the complaint is notified of that disposition and its definition, and does not expect further action.

Recommendation 19.3: The City of Albany should review the roles, responsibilities, and authority of the CPRB, including considering the implementation of independent investigative authority and associated powers.

Finding 20: All personnel should exhibit professional behavior at all times.

In Section II.C.4 of General Order 2.2.15 *Harassment in the Workplace*, the policy states that an example of sexual harassment behaviors includes the use of obscene language in a manner that is offensive to a co-worker who can hear you. It is important that this policy apply to situations in which co-workers are not present to also ensure that all employees are not using obscene language whether others can hear it or not. This is particularly important given that an individual may not always be aware that someone nearby can hear them.

Recommendation 20.1: Change the language in General Order 2.2.15 *Harassment in the Workplace* to remove the requirement that a co-worker must be present.

Section 3: Use of Force

The third section discusses our assessment of the various policies and procedures for use of force, both deadly and non-deadly. First we discuss the data we reviewed and the subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

- APD should update its use of force policy to clarify when officers can or cannot use various forms of force.
- APD should make annual reports detailing use of force incidents publicly available to community members in the city.

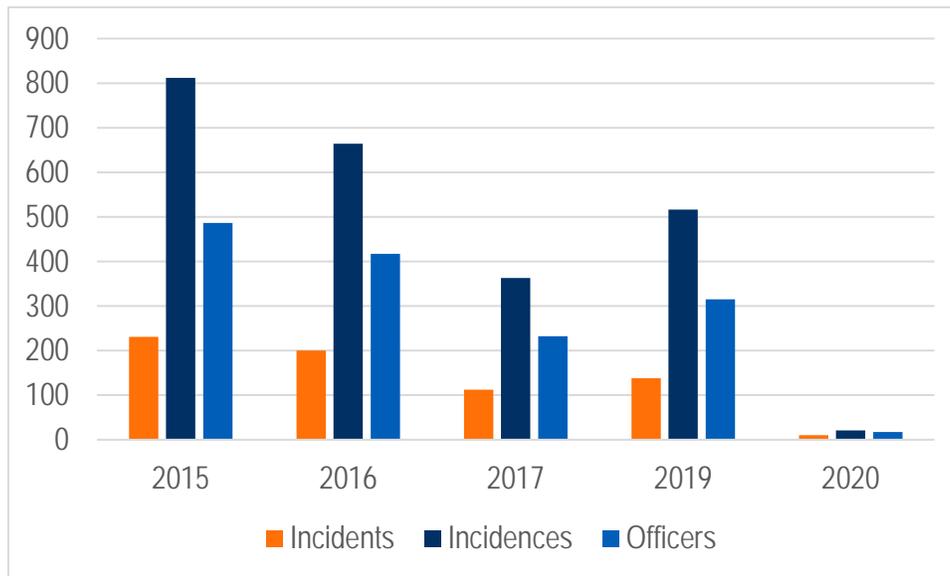
Data and analysis

The audit team analyzed use of force data from 2015 through October 2020, except for 2018 because of the data loss previously noted in our introduction. During that time, APD documented 2,376 incidences of force that occurred during 691 incidents. Each individual use of force incident can potentially include multiple officers, multiple community members, and multiple incidences of force.

These incidents included 1,468 unique combinations of incident and involved officer, as well as 830 unique combinations of incident and community member. Put another way, each individual use of force incident included, on average, 1.6 officers and 2.9 community members. Note that nine large-group incidents involving indeterminate but large numbers of community members are counted as involving only one person, so these figures undercount the number of community members. Based on combined first and last names, 218 unique officers were involved in use of force incidents, with 135 being involved in more than one incident. Based on combined first and last names, 625 unique community members were involved in use of force incidents, 16 community members were involved in more than one incident, and nine incidents involved large groups with no individually identified community members.

Figure 23 shows use of force incidents, incidences (i.e., individual uses of force within an incident), and unique combinations of incidents and officers over time. Use of force has generally been declining in APD since 2015, though the low number of incidents in 2020 reflect only a partial year as well as the administrative delay in entering use of force incidents in full into the data systems, and should not be viewed as part of this trend yet.

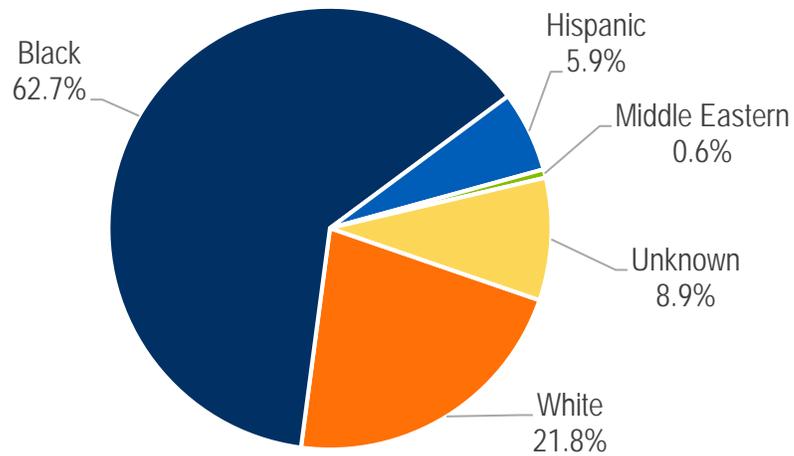
Figure 23. Use of force incidents, incidences, and involved officers over time



Source: Albany Police Department.

Figure 24 describes the race of involved community members for the 816 unique combinations of incident and community member (not including group incidents). Black community members were the most frequently involved in use of force incidents, with 62.7 percent of the community members involved in use of force incidents being Black, 21.8 percent being white, 5.9 percent being Hispanic or Latino, and less than 1 percent being Middle Eastern. In 8.9 percent of cases, the community member's race was unknown.

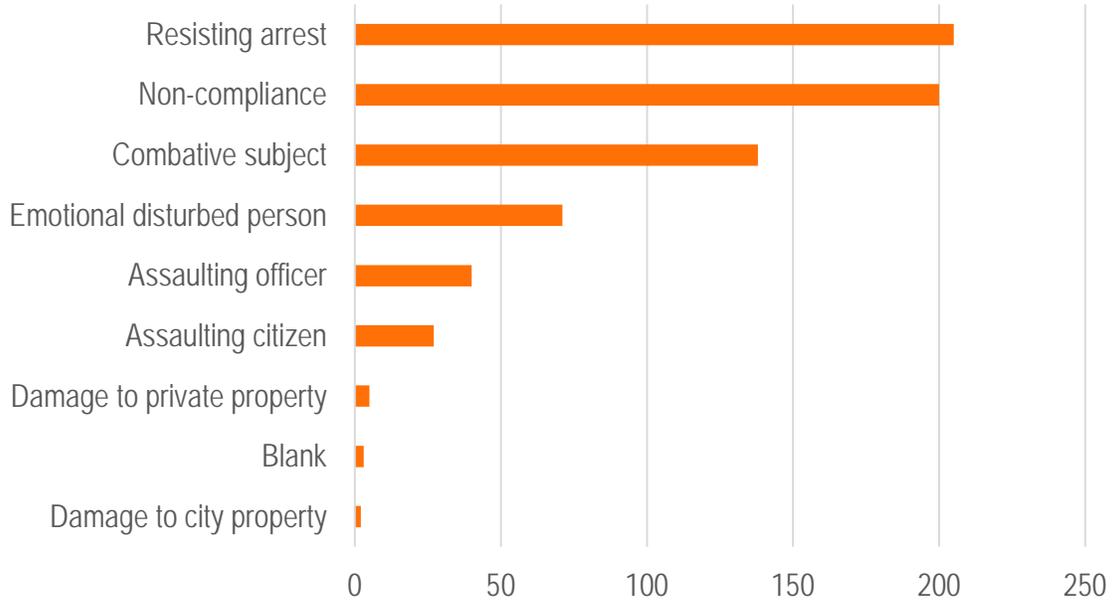
Figure 24. Race of community members involved in use of force incidents



Source: Albany Police Department.

APD tracks the reason officers used force during an incident, categorizing it into eight options at the level of the incident. As shown in Figure 25, of the 691 incidents of use of force, 205 were related to the community member resisting arrest, 200 were for non-compliance with stated officer instructions, 138 were due to a combative community member, 71 involved emotionally disturbed persons, 40 were in response to the assault of an officer, and 27 were in response to the assault of another community member. Property damage was relatively infrequently used as a reason, totaling seven incidents. In three incidents, the reason for use of force is missing.

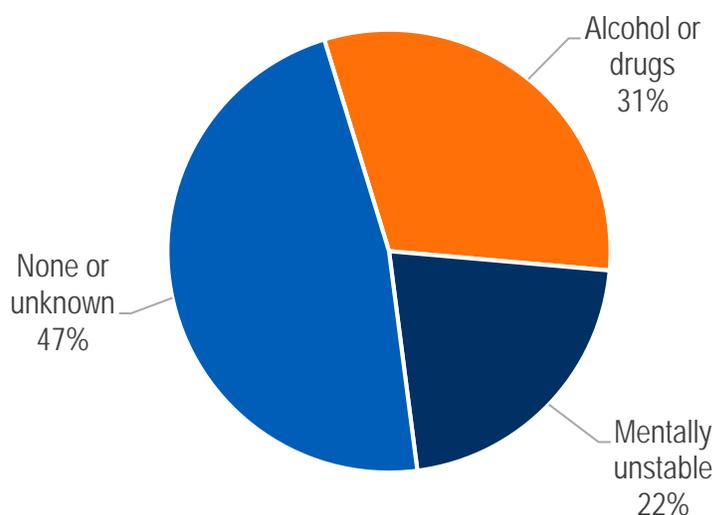
Figure 25. Reason for use of force



Source: Albany Police Department.

APD also assesses the mental state of the involved community member at the level of the incident; in other words, there is only one determination made for the entire incident, even if it involves more than one community member. Due to this, individual differences between community members involved in the incident are not captured in APD's data. For the purposes of this analysis, we collapsed APD's six categories into three; specifically, we combined drugs, alcohol and drugs, and alcohol into a single category; we maintained mentally unstable as its own category; and we combined none and unknown as well as 18 blank entries into a single category. Figure 26 provides the results from this analysis. The plurality of incidents do not involve any specific mental status, and of those that do, alcohol or drugs are more common than mental illness.

Figure 26. Mental status of individual involved in use of force incidents



Source: Albany Police Department.

APD includes eight options for describing use of force type, presented in Table 2 alongside the audit team’s assessment of these options in terms of severity. This assessment is based on APD’s stated use of force continuum as well as the audit team’s experience and expertise on use of force. The position of canine units in the use of force continuum is not settled, but most recognize that canine units have the potential to inflict severe injury and therefore rate them at the high end of less-lethal options. APD includes an “other” category for force type; because it is unclear exactly what types of force this represents, the audit team pragmatically ranked it just above physical restraint and control techniques. A review of a sample of incidences involving this category suggested that officers may be using it to refer to specific physical techniques not captured by the two existing options. In some narratives, it seemed to be used to categorize close-handed techniques or specific restraint methods.

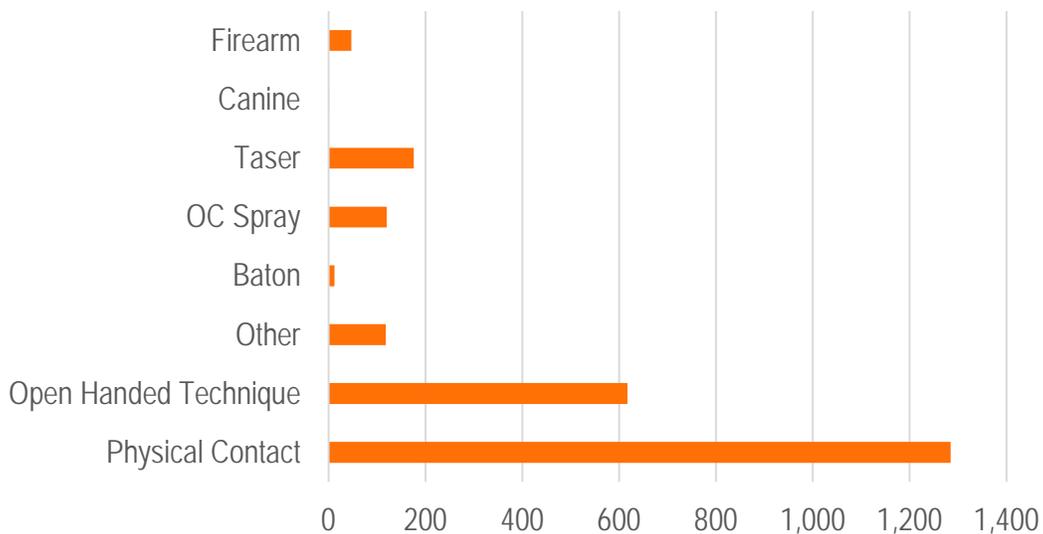
Table 2. Use of force types and severity

Type of force	Assessed severity
Firearm	8
Canine	7
Taser	6
OC Spray	5
Baton	4
Other	3
Open Handed Technique	2
Physical Contact	1

Source: Albany Police Department.

Figure 27 presents the breakdown of types of force used in the 2,376 incidences of use of force we analyzed, ordered from most to least severe. As is typical in most police departments, physical contact and open-handed techniques comprised the majority of incidences.

Figure 27. Incidences of use of force by type of force used



Source: Albany Police Department.

We next considered analysis of disparities in the use and application of force, focusing on these effects for Black community members. Disproportionality in outcomes is often expressed in terms of compound ratios: ratio of the percentage of police interactions with Black individuals involving use of force to the corresponding percentage for white individuals. This can be expressed with the following formula:

$$\frac{\text{Use of force}_B / \text{Total interactions}_B}{\text{Use of force}_W / \text{Total interactions}_W}$$

This compound ratio provides a clear and compelling interpretation: it measures how much more likely police interactions with Black individuals are to result in the use of force compared to interactions with white individuals. For the purposes of this analysis, we considered the arrest data APD provided as the baseline for interaction between Albany community members and the police. **Using this approach, the compound ratio for Black community members is 1.2, meaning that Black community members are involved in 1.2 times more use of force incidents (using arrests as a baseline) than white community members.** However, this measurement does not take into account any information about the specific incidents that involved use of force.

Since APD collects robust data on use of force incidents, the audit team was able to implement statistical analysis about the level and amount of force used in these incidents to understand potential disparities related to the race of the involved community member. For the purposes of this analysis, we considered the number of incidences of use of force for a particular combination of incident and involved community member, and also the highest level of force used.

To analyze these incidents, the audit team implemented a quasi-experimental approach called propensity score matching. Propensity score matching compares incidents that are otherwise extremely similar but differ in terms of the race of the involved community member. In simplified terms, in reviewing use of force incidents, the propensity score matching method would attempt to match two incidents: one involving a white community member and one involving a Black community member. We would then compare these matched incidents (that have a similar underlying reason for use of force, community member gender, and officer assessment of community member's mental status). Since the two incidents are otherwise similar, absent disparate treatment or bias, we would expect to see both incidents result in the same outcome (e.g., level of force used, count of force used). Although propensity score matching cannot establish that racial bias exists with certainty, it provides stronger evidence than past techniques, such as correlational analysis or compound ratios, alone.

We analyzed use of force incidents using propensity score matching on the 753 incident-community member unique combinations, having calculated the highest level of force used and the total number of incidences of force used against the community members in the incident. We also combined the reasons for use of force into four categories: assaulting a citizen or officer, combative or non-complaint (including emotionally disturbed persons), resisting arrest, and property damage. We similarly combined officers' assessments of community members' mental state into three categories: alcohol or drugs, mentally unstable, and none or unknown status. We used these variables, plus the sex of the involved community member, to identify similar use of force incidents for comparison. We used nearest neighbor matching and reviewed and achieved acceptable balance and common support for both analyses.

Table 3 and Table 4 present results from this analysis, reporting the average treatment effect.¹⁴ In both analyses, we do not find statistically significant differences in the level of force or the number of incidences of force used when comparing Black community members to all other community members, using a 5 percent alpha and associated 1.96 critical t-score. Note that the results for incidences of use of force would be significant at the 10 percent alpha level (1.66 critical t-score). For robustness, we considered an alternate specification including only Black community members and white community members and found similar results. Finally, we considered an alternate specification using radius matching with a radius of 0.01 and again found similar results.¹⁵

Table 3. Propensity score matching results for highest level of force used

Model	Difference in highest level of force used	t-statistic	Statistically significant?
Nearest neighbor	-0.001	0.01	No
Black and white community members only	-0.05	0.34	No
Radius of 0.01	-0.002	0.02	No

Source: Albany Police Department.

Table 4. Propensity score matching results for incidences of force used

Model	Difference in incidences of force used	t-statistic	Statistically significant?
Nearest neighbor	0.11	1.66	No
Black and white community members only	0.15	1.74	No
Radius of 0.01	0.08	1.19	No

Source: Albany Police Department.

Findings and recommendations

Finding 21: APD’s Use of Force Core Principles lacks specificity on whether force is justified when an officer or bystander’s life could be in danger.

In General Order 1.3.00 *Use of Force – Lethal Weapons*, APD outlines their Use of Force Core Principles. Within those principles, it is necessary to specify whether use of force is allowed when

¹⁴ We report the average treatment effect in lieu of average treatment on the treated, since average treatment on the treated is appropriate when individuals can choose their assignment into the condition of interest, which is not the case for minority status. See: Rosenfeld, R., Rojek, J., & Decker, S. (2012). Age matters: Race differences in police searches of young and older male drivers. *Journal of Research in Crime and Delinquency*, 49(1), 31-55.

¹⁵ Complete analytical results are available from the audit team upon request. Requests should be directed to the City Auditor’s Office.

possible death or serious injury is being threatened and when the suspect has the means and ability to do so.

Recommendation 21.1: APD should consider revising General Order 1.3.00 *Use of Force – Lethal Weapons* with the following changes:

- Under Section I.A.1.a, “The suspect is acting or threatening to cause death or serious physical injury to the officer or others.”
- Under Section I.A.1.a, “The suspect has the means or instrumentalities to injure an officer or others.”
- Under Section I.A.1.a, “The suspect has the opportunity and ability to use the means of instrumentalities to cause death or serious physical injury.”
- Under Section I.A.b.i, “Felony offense involving the infliction of serious physical injury or death.”
- Add language to Section I.A.c to include the suspect threatening to cause death or serious injury to the officer or others, with the means to do so.

Recommendation 21.2: APD should review General Order 1.3.00 *Use of Force – Lethal Weapons* to ensure it is clear when deadly force is authorized and to specify it is prohibited in all other circumstances.

Finding 22: APD’s current policies allow for the use of orthochlorobenzal malononitrile (CS gas) in response to unlawful assembly and for the purposes of crowd dispersal, with approval from the incident commander overseeing response, after an audible warning of intended use, and with Emergency Medical Services on-site.

The use of CS and tear gas for crowd dispersal purposes has come to the forefront of the national conversation on police-community relations and police reform in recent months, in light of widespread protest activity during 2020. Many law enforcement agencies are revisiting their policies on the use of these chemicals during protests and other mass gatherings. APD’s policies on the use of CS gas do not include many specifics about when CS gas use is appropriate or inappropriate, other than a prohibition on its use for passive resisters, and a directive to consider the totality of circumstances. Community members expressed concerns during interviews regarding APD’s use of CS gas during protests and also reported use of CS gas in neighborhoods without active protest activity and without audible warning to occupants, who had CS gas enter their homes through open windows. Community members also expressed concerns about finding CS canisters that were past their expiration dates and that CS gas was deployed when Emergency Medical Services were not on site. APD would benefit from a more extensive policy on the use of CS gas clearly establishing allowable and unallowable scenarios.

Recommendation 22.1: APD should review and revise their policy on the use of CS gas in response to unlawful assembly and for crowd dispersal purposes to align with emerging recommended practices regarding maintaining community trust during protest events. At a

minimum, APD should expand this section of policy to clearly enumerate the specific circumstances in which CS gas can or cannot be used for these purposes.

Recommendation 22.2: APD should ensure that all officers and incidents are compliant with current policy regarding the use of CS gas, particularly related to required notification, presence of Emergency Medical Services, and disposal of expired CS gas canisters.

Finding 23: APD's policies on use of force do not currently include an explicit sanctity of life statement.

APD use of force policy is documented in General Orders 1.3.00 *Use of Force – Less Lethal Weapons* and 1.3.05 *Use of Force – Lethal Weapons*. Neither General Order incorporates a formal statement on sanctity of life. Sanctity of life statements reinforce the importance of all human life, both within the department and the community. Though officers and police personnel implicitly understand the principles of sanctity of life, the inclusion of such a statement within use of force policy assures the community of the department's commitment to their wellbeing, and ensures that officers explicitly acknowledge the gravity of their responsibility to serve the community.

Recommendation 23.1: APD should revise GO 1.3.00 *Use of Force – Less Lethal Weapons* and 1.3.05 *Use of Force – Lethal Weapons* to include a sanctity of life statement presented clearly under such a header at the beginning of the policy.

Finding 24: APD does not publish annual reports on their use of force incidents.

To improve the department's transparency with the community, it is important to be fully aware of the use of force incidents within the department on a yearly basis. Producing a summary report and releasing it to the public will show the community APD's emphasis on community engagement, as well as the steps they are taking to make progress in this area. APD describes the development of such a report for internal purposes in General Orders 1.3.00 and 1.3.05; this report could be used as the basis to produce a public report.

Recommendation 24.1: APD should produce a summary report annually on the use of force within the department that is publicly available to the entire City of Albany, New York.

Recommendation 24.2: APD should revise General Order 1.3.05 *Use of Force – Lethal Weapons*, section V.A. to include language stating that a summary report for the public on use of force incidents will be available on an annual basis.

Finding 25: APD codes use of force incidents so that the specific combination of incident, involved officer, type of force, incident of force, and involved community member can be discerned from standardized data fields.

APD's use of force incident database includes a separate line for each combination of incident, officer, force used, and involved community member. This allows for analysis of each individual incidence of force within an overall incident and is a best practice for use of force data management. For incidents

with multiple officers and multiple community members, it is straightforward to understand which officers used force, what type of force they used, and against which community members. This allows for a better understanding of disparity in use of force.

Recommendation 25.1: APD should maintain its practice of documenting use of force incidents at the level of the incident plus the involved officer plus the involved community member.

Finding 26: APD codes only one assessment of community member mental status for use of force incidents, even for incidents involving multiple community members.

Based on the audit team's review of the use of force data structure, APD does not code officer assessments of community members' mental status individually for each person involved in the incident.

Recommendation 26.1: APD should assess each involved community member's mental status individually using current policy for making these assessments and note each separately in the use of force report.

Finding 27: APD includes an "other" category for use of force type.

APD's current data structure allows officers to select "other" for the type of force used. Given the importance of accurate use of force data collection and analysis, the use of an "other" category is not preferable. Given that APD clearly delineates allowable types of force in policy, this category should not be necessary.

Recommendation 27.1: APD should review use of force incidences coded as "other," including interviewing involved officers for clarification if necessary, and add new use of force type categories necessary to eliminate the "other" category.

Finding 28: Some use of force incident narratives are difficult to understand because of vague pronoun references, use of first person, and the lack of officer status designation in the APD use of force database.

Though the audit team did not conduct a complete review of use of force incident narratives, we did review some narratives during our data analysis, as well as to fill in missing information for a few incidents. In this review, we noted that some incident narratives were not clearly written, making it difficult to discern the details of the use of force incident.

One reason for this difficulty was the use of vague pronoun references (e.g., referring to "him" or "her" when it is not immediately obvious which person the reference is for). Using names for each reference may feel repetitive, but it improves the clarity of the description. Some officers also report using first person ("I" statements), which can also be difficult to follow, particularly since the same incident narrative is attached to multiple officers in the use of force database. The reader is left to infer who "I" refers to. Finally, APD includes all officers on the scene in their use of force database,

which is a best practice, but does not include a field in the use of force database to distinguish each officers' role in the situation and whether they were involved in the use of force or were a witness.

Recommendation 28.1: APD should establish guidance for officers writing use of force incident reports, including avoiding the use of pronouns (he or she) in favor of names and eliminating the use of first-person narratives.

Recommendation 28.2: APD should implement a field in the use of force database to designate each officer by their status as related to the use of force (e.g., involved officer vs. witness).

Finding 29: For use of force incidents in which multiple officers are on the scene, APD's current policy is for a single officer to submit an incident narrative, with other officers on the scene co-signing that narrative.

APD's current policy requires just one officer involved in an incident to file a use of force narrative, which all other involved officers co-sign. Though this system is likely effective in a situation in which, for example, only one officer was involved in the use of force and other officers on the scene were only witnesses, it is not ideal for incidents in which multiple officers used force. Recollections of the incident may differ from person to person, some officers may have different angles of view and thus different information, and mistakes in perception or recollection are unlikely to be uncovered when only a single narrative is submitted. By having all officers who used force in the incident submit a report, a clearer picture will emerge of the totality of circumstances, and the multiple narratives will serve as fact checks on one another.

Recommendation 29.1: APD should revisit its policy of requiring only a single use of force incident narrative submission and consider requiring each officer who used force during the incident to submit an independently generated narrative. Officers involved in the incident as witnesses should co-sign these narratives to indicate they reflect the incident accurately.

Section 4: Community Policing

The fourth section discusses our assessment of the various policies and procedures for community policing practices. First, we discuss the data we reviewed and our subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

- APD's philosophy and culture have a strong focus on community policing practices, but this message needs to be reinforced to all personnel.
- The structure of the NEU and School Resource Officers should be reviewed for efficiency and effectiveness.
- APD's website could benefit from a modern reconstruction so that each embedded page is easily accessible and allows community members to find current information on the organization and projects APD is working on.

Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected during interviews and a review of APD policies.

Findings and recommendations

Finding 30: Since 2009, the APD has committed to a community policing and engagement philosophy and culture. However, this commitment is not present throughout the agency, and the community does not feel APD genuinely connects with community members in a substantive manner. There is a clear disconnect between APD's intentions, policy, and leadership and the experience of the community.

Interviews with prior sworn personnel and current long-time officers clearly show that a community policing philosophy has been encouraged beginning with prior leadership. These efforts developed many outstanding programs for community outreach and engagement, including Pastors on Patrol, the Police Athletic League, and the NEU, as well as partnerships with the Boys & Girls Club, the citizens police academy, community meetings, the LEAD (Leadership, Education, and Development) program, and others. However, community members expressed concerns about the pop-up cookout events and Coffee with a Cop, citing that they are informal and tend to draw the same community members each time; they do not provide the forum the community is looking for.

Community policing activities in APD appear to be siloed. Throughout the audit team's interviews with patrol officers, personnel expressed that community engagement is seen as the role of the NEU and that it was uncommon for patrol officers to engage in community policing activities consistently because they need to be available for the next call for service. The audit team noted that APD lacks a high level of communication and understanding of how the community interactions of one particular unit can undermine and counteract the efforts of another unit. It is important that work in a NEU beat be coordinated with patrol units in the corresponding beat. Likewise, enforcement activity by specialized units (e.g., Community Response Unit (CRU), narcotics unit) were cited as working against engagement efforts by the NEU. Officers need to understand how their interactions in a community can undermine other officers' efforts to build trust. All officers are interdependent with each other and should not act with independent missions and agendas.

During our interviews, community members expressed frustration with officers from the NEU being late or not showing up for community engagement activities. Officers explained that these instances occurred because they were sidetracked by other department priorities or did not feel that communication within the department regarding the event was sufficient. Community engagement activities demonstrate a commitment from the APD to its community partners, which is especially important in minority communities.

Also through interviews, officers revealed that they receive little training for community policing and engagement activities. Though some officers have those instinctive qualities in their personality, others require the confidence that training can provide. This training should be provided not only to NEU and Community Service Officers, but also to the entire department so that all members understand their roles in building better, trusted relationships with the community. Community members expressed concerns, often tied to the First Street Incident, that officers do not engage in community problem-solving activities nor reach outside the police department to assist in solving quality of life issues. APD does not seem to focus on the SARA (Scanning, Analysis, Response, and Assessment) model in its officer training, performance evaluations, or policy.

Recommendation 30.1: APD should ensure adequate staffing to prioritize officers' attendance at community engagement activities.

Recommendation 30.2: APD should move towards a philosophy on community policing and engagement that is encouraged and embraced by all department personnel, rather than being conducted only by the NEU.

Recommendation 30.3: APD should continue current community policing and engagement efforts with an emphasis on coordinating and prioritizing proactive problem-solving for quality of life issues. APD should ensure officers are trained in and actively implement the SARA model regularly as part of their engagement with the community.

Recommendation 30.4: APD should increase community policing and engagement training for the entire department. APD should use a combination of in-house and outside contractors to ensure a wide sample of best practices.

Recommendation 30.5: APD should develop new community policing strategies beyond pop-up cookouts, Coffee with a Cop, etc., offering a more formal presence in the community to create rapport with the community. These new efforts should be intertwined with community leaders' efforts to create a collaborative working environment.

Finding 31: APD's Vision, Mission, and Core Values, as documented in General Order 1.1.00, do not include an explicit commitment to community policing.

General Order 1.1.00 *Vision, Mission, and Core Values* establishes the organizational philosophy for APD and its operations. It includes Vision and Missions statements regarding reducing crime and improving quality of life in a collaborative manner, as well as highlighting APD's core values of excellence, honor through integrity, courage, respect, and teamwork. The policy does not, however, explicitly reference community policing. Community members expressed concerns that APD has recently moved away from its previous orientation towards community policing. Re-affirming APD's commitment to community policing in General Order 1.1.00 *Vision, Mission, and Core Values* could represent a first step in addressing those concerns.

Recommendation 31.1: APD should incorporate community policing philosophy and associated principles explicitly into their Vision, Mission, and Core Values.

Finding 32: APD has a strong commitment to recognizing officers for outstanding achievements.

APD has implemented a Meritorious Service Award that distinguishes officers for outstanding achievement through their work in the police department. APD also has a Community Service Award given to someone who shows a strong devotion to the community and is continuously making positive impacts. These awards are crucial because they push personnel to want to work harder to positively impact the community they serve and foster great relationships with community members into the future.

Recommendation 32.1: APD should continue giving out these two achievement awards to continue working towards positive engagements with the community.

Finding 33: The community is under the impression that the NEU is understaffed and has been reduced in staffing and resources recently.

During interviews with community members, individuals raised concerns about the recent reduction in the size of the NEU due to staffing constraints. Community members felt that the unit no longer has the capacity to engage with the community in the manner they had in the past. Community members also expressed concerns about NEU personnel moving to work only on weekdays; they feel that having full-time NEU coverage is beneficial to their neighborhoods and to relationships with the police department. APD personnel and community members shared concerns that the NEU has been struggling to fulfill its mission in the impacted neighborhoods with low staffing. Staffing cuts in NEU

also contribute to community mistrust and the feeling that community policing has been de-prioritized.

Recommendation 33.1: When staffing levels allow, APD should reassign officers back to the NEU to ensure the unit can fully reach all neighborhoods within the city and deploy NEU officers seven days a week.

Recommendation 33.2: APD should consider combining NEU officers, SROs, and Community Service Officers into a combined unit that focuses on Community Policing and Engagement under the command of a senior leader and that incorporates non-sworn personnel such as case workers, outreach personnel, and victims' advocates. This would provide a pool of officers and additional staff for engagement activities and allow increased assignments outside of the Monday through Friday day shift.

Finding 34: The selection process for officers assigned to the NEU lacks a formal structure.

Interviewed APD personnel indicated that the selection process for the NEU officers is unclear and not transparent. The selection of NEU officers was explained as being primarily through a seniority-based system. There were concerns that some NEU officers selected the assignment to have preferable days off, preferable hours, and a "break" from patrol duties. It is important that the selection process fosters community buy-in and transparency while encouraging a selection of officers who desire the assignment for the right reasons. Seniority should not be the only selection criteria for this selection process because an officer's ability and prior engagement efforts should be considered.

Recommendation 34.1: APD should explore changing the NEU selection process (within the requirements of the collective bargaining agreement) to include community member input, since community members best understand what characteristics they would like to see in their assigned NEU officers.

Recommendation 34.2: APD should review officers currently assigned to the NEU to ensure that all exhibit a clear community orientation and a problem-solving attitude, and are endorsed by the community members they serve.

Finding 35: APD assigns SROs to the local school district, but this program is under-resourced. Stated SRO roles, per policy, do not include counseling and mentoring or emergency planning and critical incident response.

APD describes the School Liaison Program, consisting of SROs assigned to the City of Albany School District, in General Order 1.2.10 *Diversion Programs*. In this policy, APD describes the role of SROs as including:

- Developing programs and training for delivery in the schools;
- Participating in Gang Resistance Education and Training (G.R.E.A.T.);
- Delivering prevention programs to students;

- Providing security during dismissal;
- Serving as information-sharing liaisons to school officials regarding relevant reports produced within APD;
- Being available to students, parents, teachers, and administrators; and
- Serving as liaisons for APD investigations involving school-aged children.

Absent from the list of responsibilities are two elements suggested by the Office of Community Oriented Policing Services (COPS Office) and the National Association of School Resource Officers (NASRO). The COPS Office and NASRO both acknowledge the role of SROs as informal counselors who foster positive relationships with youth, build relationships with students, connect youth and families with social services as necessary, and potentially support the recruiting pipeline for a department. In addition, SROs rarely but critically serve in an emergency management capacity during critical incidents in school settings, as well as support the development of school safety plans and threat assessment programs.

Currently APD has only three full-time SROs that are assigned to Albany Public Schools. Albany Public Schools have an excess of 10,000 students and 18 buildings. Under the current structuring, the current SROs have the capacity for only safety-related activities. NASRO recommends a ratio of one police officer per 1,000 students, depending on other factors such as school size and grade levels. The recommended ratio allows officers to provide only an appropriate level of safety and serve as role models, mentors, and problem solvers within the school setting.

Recommendation 35.1: APD should ensure that GO 1.2.10 *Diversion Programs* and other SRO guidance are updated to reflect SROs’ commitment to community policing, youth engagement, and recruiting, and to acknowledge SROs’ role in emergency planning and critical incidents.

Recommendation 35.2: APD should develop a plan to expand, over time, the number of SROs to meet NASRO’s recommended officer-to-student ratio in served schools.

Recommendation 35.3: APD should reconfigure the assignments of officers to assign them according to geographic areas so that some officers can serve multiple schools.

Finding 36: SROs do not contribute to the “school-to-prison” pipeline.

The audit team noted that SROs do not feel their primary role is to make arrests for school-related issues. During our interviews, the SROs reported that they primarily allow school administration to take the lead on disciplining students. Arrests by SROs are infrequent. SROs have developed a positive student recognition program called “Do the Right Thing” that recognizes good deeds done by students. SROs tend to focus more on partnership than on enforcement actions within the schools.

Recommendation 36.1: APD should continue to encourage SROs to develop innovative programs to encourage positive student behavior and to minimize their contribution to the school-to-prison pipeline.

Finding 37: APD engages in formal youth engagement programs and activities but would benefit from gathering community input on the effectiveness of these programs and engaging in informal youth engagement outside of official programs.

APD currently pursues youth engagement primarily through formal programs, including To Reach and Connect (TRaC), the Police Athletic League, Police Explorers and Cadet programs, and G.R.E.A.T. APD assigns a coordinator to these programs and reviews and evaluates each program annually. Community members indicated during interviews, however, that these programs are appreciated but would benefit from adjustments, particularly to encourage participation by underserved populations in the City of Albany. Officers and community members also noted that past efforts by individual officers to connect informally with youth through strategies such as spending off-duty time at recreation centers, playing sports informally with youth, and other individually driven efforts were more successful in building trust with young individuals, particularly if officers could participate in these activities out of uniform to maintain a less intimidating presence.

Recommendation 37.1: APD should maintain and, in some cases, revitalize existing youth engagement programs, based on community input.

Recommendation 37.2: APD should develop policies to support officers engaging informally with youth, including opportunities out of uniform and in venues naturally used by youth in the community, such as after-school community center recreation programs.

Finding 38: Current LEAD policies and procedures leave the decision to refer eligible individuals to LEAD at the officer's discretion.

Under current policy, officers are not required to participate in the LEAD program by diverting eligible individuals for treatment or other alternatives to arrest. As noted in other findings, there is general distrust in the community regarding the LEAD program, which they feel is underused and has largely provided diversion opportunities to white community members. By allowing officers to make referrals entirely at their discretion, APD creates a very real possibility of disparate treatment of community members by race, gender, and other individual characteristics. Implicit bias will likely play a role in LEAD referrals under the current system.

Recommendation 38.1: APD officers should refer all individuals meeting the eligibility criteria and not falling in an exclusion category to LEAD.

Recommendation 38.2: APD should collect data about LEAD referrals and non-referrals and regularly analyze this data to understand the reasons for non-referrals and the impact of specific exclusion criteria, particularly the criteria that the complainant is willing to decline prosecution.

Finding 39: Patrol officers recently started conducting 20 minutes of foot patrol on each shift.

Patrol officers recently started conducting 20 minutes of foot patrol on their daily shifts; however, based on information gathered during interviews, it is clear that not all officers have bought into this

policy. Officers are not clear on the expectations for their prescribed period of foot patrol, resulting in inconsistent application. Community members report that some officers use this time to engage directly with community members in a non-enforcement capacity, while others perform only the letter of the law by parking their vehicle and standing next to it for 20 minutes. It is important to continue fostering improved relationships with the community, and this cannot always be done from inside a patrol vehicle.

Recommendation 39.1: In General Order 3.1.00 *Patrol Function* under section II, APD should add letter D. A 20-minute foot patrol is required on each shift, as permitted, to engage with the community and strengthen relationships.

Recommendation 39.2: APD must increase buy-in from officers about this patrol activity to ensure that officers are interacting with the community in a positive way.

Finding 40: APD has a clear explanation of the difference between protests and civil disturbances and demonstrates a strong emphasis on connecting with leaders of groups planning these events.

In General Order 3.9.05 *Pre-planned/High Risk Situations*, APD provides a strong and clear explanation of protests and civil disturbances. They also emphasize connecting with leaders of groups planning these specific events to advise them of the importance of keeping the protests peaceful. APD has a strong policy detailing their procedures for high-risk situations. This emphasis is important because it allows APD to collaborate with the group leaders in order to keep the protests peaceful and ensure they do not result in a civil disturbance; it also ensures that APD personnel know exactly what to do in these high-risk and pre-planned situations.

Recommendation 40.1: APD should add language to General Order 3.9.05 *Pre-planned/High Risk Situations* section IV.C.2.a that personnel shall attempt to ascertain the identity of leaders of the protests or civil disturbances.

Recommendation 40.2: APD should add language to General Order 3.9.05 section IV.C.2.a that states, "Supervisor shall attempt to open lines of communication with the leader of the group to ensure it remains a peaceful protest." APD should make this change in section III for high-risk situations as well.

Finding 41: APD has a website embedded within the City of Albany's landing site; however, APD would benefit from a more modern website.

The APD website is embedded within the City's site with various components, including an Administration page, Albany Community Police Advisory Committee Page, LEAD page, and others. During our review of the website, the audit team identified numerous out-of-date sources, missing information, and pages that would benefit from editing. The website is also missing information and documents that would help improve community member's understanding of the department and its processes and build trust. It is important that the APD have an up-to-date and efficient website that

includes information the community can easily access. Keeping APD's community policing values at the forefront also includes having a website that the community can easily navigate.

Recommendation 41.1: Depending on IT infrastructure, APD should consider creating its own website. If this is not possible, APD should reconstruct the current landing page on the City of Albany's site.

Recommendation 41.2: APD should make the following website content changes:

- **On the home page, move the mission and vision to the very top to ensure it is the first information that community members see when they visit the website.**
- **Under the Administration landing page, APD should include a current organizational chart with names and positions.**
- **Add information about the complaint process, preferably including the option to submit complaints online or via a digital form sent by email.**
- **Add pages to host publicly released reports, such as annual use of force reports, complaint analysis, etc., so they are easily accessible to the public.**

Recommendation 41.3: APD should review all data and information on the website and ensure it is up to date and reflects current practices.

Recommendation 41.4: APD should make all General Orders available on their website publicly.

Section 5: Recruitment, Hiring, and Retention

The fifth section discusses our assessment of the various policies and procedures for recruitment, hiring, and retention, including the performance evaluation process, promotional process, and safety and wellness. First, we discuss the data we reviewed and the subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

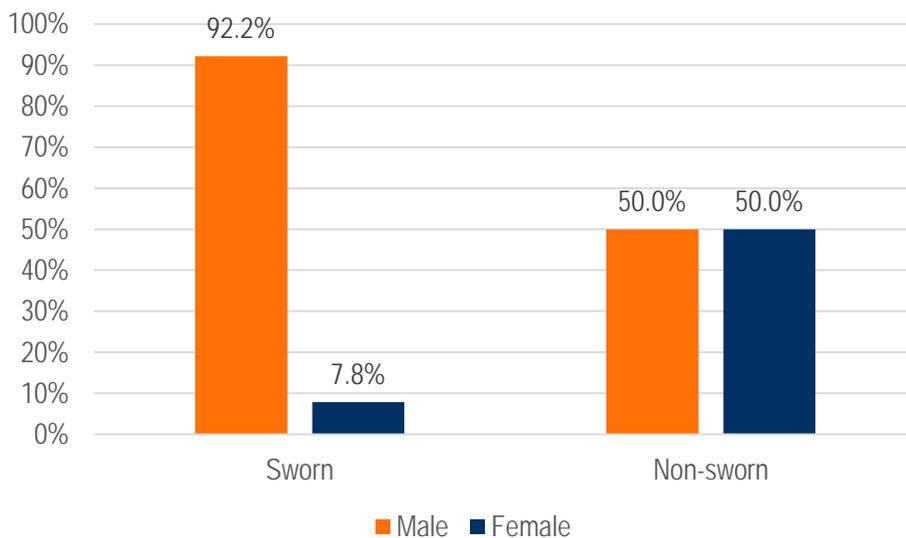
- The diversity of APD personnel does not reflect the racial makeup of the City of Albany.
- APD should review its recruitment and hiring practices, and the department should release annual reports on these data.
- The promotional process is of concern to personnel and should be tracked in a database, and the performance evaluation process should be standardized.

Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected during interviews, a review of APD policies, and administrative data provided about department personnel. At the time of the audit analysis, APD employed 380 full-time personnel, of which 294 (77.4 percent) were sworn officers and 86 (22.6 percent) were non-sworn staff.

Among full-time personnel, 82.6 percent were male and 17.4 percent were female. As shown in Figure 28, gender among non-sworn staff was evenly split between men and women, but among sworn personnel, only 7.8 percent were female.

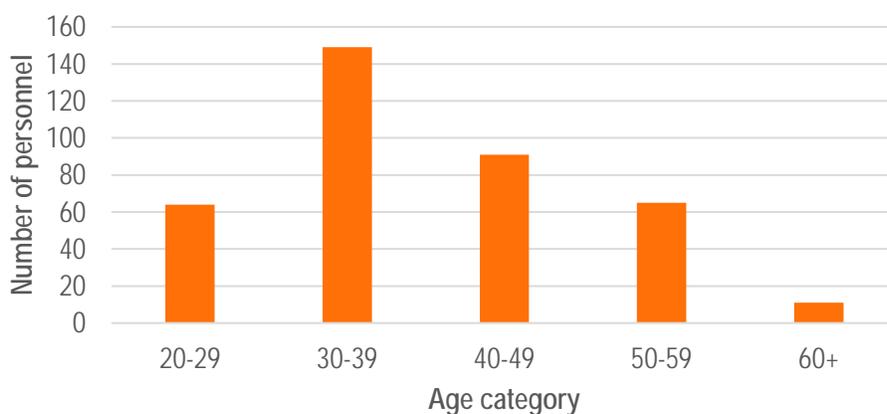
Figure 28. Gender of sworn and non-sworn personnel



Source: Albany Police Department.

APD employees ranged from 20 to 74 years old. As shown in Figure 29, personnel are most commonly between 30 and 39 years old.

Figure 29. Age distribution of personnel

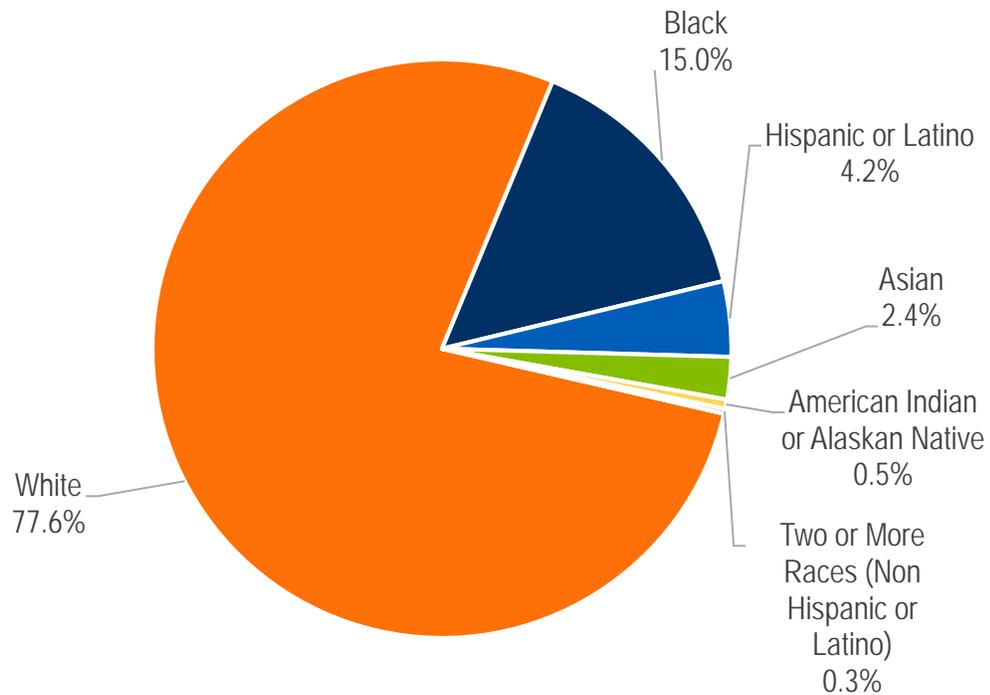


Source: Albany Police Department.

Figure 30 presents the racial composition of the APD. APD's racial demographics cannot be directly compared to US Census data, since APD categorizes race and ethnicity together, while the Census collects information about ethnicity separately. However, the Census does report that white non-

Hispanic or Latino community members make up 49.9 percent of the population, while they represent 77.6 percent of APD personnel.¹⁶

Figure 30. Racial distribution of personnel

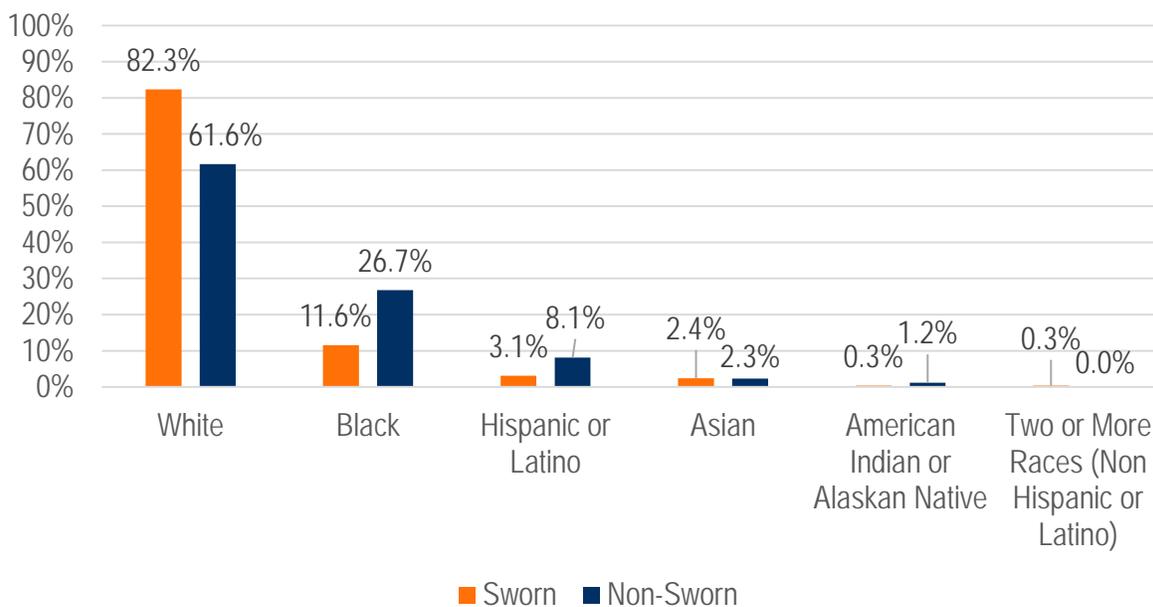


Source: Albany Police Department.

As Figure 31 demonstrates, Black and Hispanic personnel in APD are more likely to work in non-sworn positions, with 82.3 percent of sworn personnel being white.

¹⁶ Source for community statistic: US Census population estimates for July 1, 2019, accessed via QuickFacts, available online: <https://www.census.gov/quickfacts/fact/table/albanycitynewyork/PST045219>.

Figure 31. Racial distribution of sworn and non-sworn personnel



Source: Albany Police Department.

Findings and recommendations

Finding 42: APD maintains a documented recruitment plan for full-time sworn personnel, which includes a focus on recruiting individuals from underrepresented demographics and a goal for APD personnel demographics to reflect the community.

As noted in General Order 2.3.00 *Recruitment and Selection*, APD has a strategic plan for the recruitment of full-time sworn personnel. This policy details the goal of the recruitment plan, which is to achieve an ethnic, racial, and gender composition in the full-time sworn personnel ranks that represents the Albany community. The recruitment plan includes objectives, a description of the Albany community demographics, discussion of past recruitment efforts and initiatives, strategies and materials regarding representation in recruitment personnel, and an action plan for implementation. The Administrative Services Bureau reviews and analyzes the plan annually, including a review of APD personnel demographics in relation to community demographics.

As noted in the audit team’s analysis of APD full-time personnel demographics, APD personnel do not reflect the racial or gender demographics of the city, particularly its sworn personnel. Women are underrepresented among sworn personnel, and the department overall (and particularly in sworn positions) is majority white non-Hispanic or Latino, whereas the City of Albany is approximately 50 percent composed of members of ethnic or racial minority groups. Individuals the audit team

interviewed expressed concerns about the representativeness of the department; they felt the department could do more to effectively recruit members of racial or ethnic minority groups.

Recommendation 42.1: APD should continue to maintain and regularly update their strategic plan for recruitment, with particular attention to the effectiveness of its recruiting strategies.

Recommendation 42.2: APD should develop a similar recruitment plan for full-time non-sworn personnel.

Recommendation 42.3: APD should develop a publicly releasable version of the annual recruitment plan analysis and make this report available to the community.

Finding 43: Though APD’s recruitment plan emphasizes recruiting members of racial or ethnic minority groups, personnel demographics do not reflect community demographics. This lack of representation may be partly due to disparities in the hiring process.

The City of Albany uses the New York State Civil Service system for the hiring of new sworn officers. That system does not allow for a preference for diverse hiring to reflect the demographics of the city. Based on statistics, the racial makeup of the department does not reflect the city’s racial and ethnic makeup. The community has serious concerns about diversity in APD, which are supported by the personnel analysis the audit team conducted. During our interviews, APD personnel expressed fewer concerns about the level of diversity within APD. APD has established procedures for recruiting personnel from racial or ethnic minority groups, but does not have similar strategies to ensure these applicants are successful during the application and hiring process.

The City could petition for changes in legislation to allow for the implementation of a diverse hiring preference. However, this process is likely to take time. In the meantime, and absent a preference for diverse hiring, APD can still take steps to support applicants from racial or ethnic minority groups. APD does not currently track applications and applicant progress in the hiring process. By tracking this information, APD would be able to identify quantitatively at which points in the application process or the Academy applicants fail or drop out, and whether racial disparities are present in those patterns. To the degree they are, APD may be able to incorporate programs or initiatives to support applicants and increase their chance of making it through the hiring process successfully.

Recommendation 43.1: The City of Albany should explore options locally and at the state level to implement a diversity preference for hiring, including the possibility of moving away from the civil service hiring system and petitioning for a change in state legislation.

Recommendation 43.2: APD should implement a system or database to track applications and applicant progress through the hiring process and analyze this data annually to identify racial, ethnic, or gender-based disparities at each stage of the hiring process. If such disparities are identified, APD should investigate the root causes and, if possible, implement programs to ameliorate those disparities.

In particular, community members expressed concerns about applicants from ethnic or racial minority groups failing to meet the physical fitness requirements at a disparate rate. APD

could address this proactively by providing additional training or other options to prepare applicants for the test.

Recommendation 43.3: APD should disclose the diversity of the department to the public on an annual basis to promote transparency.

Finding 44: APD does not currently track data on promotion applications or applicants and promotion decisions in a formal system or database.

APD clearly delineates the promotion process in General Order 2.3.10 *Promotional Process*, including a description of procedures for job postings, Civil Service Examinations, applications, and criteria for selection of personnel. The process and procedures are described in detail at each stage of the application process. However, APD does not currently record data on applications and applicants for open positions and promotion outcomes. Therefore, the audit team was not able to conduct analysis of promotions to investigate the possibility of racial, ethnic, or gender-based disparities in promotional decisions.

Recommendation 44.1: APD should establish a system to collect and retain data about the promotional process, including applicants, applicants' demographic information, relevant data considered for promotion decisions (e.g., Civil Service Exam results), and outcomes.

Recommendation 44.2: APD should analyze promotion data annually to identify racial, ethnic, or gender-based disparities in the promotion process. If such disparities exist, APD should investigate the root causes and, if possible, implement programs to ameliorate those disparities.

Finding 45: Relationships between supervisors and their officers are very positive.

Interviewed APD personnel noted that their working relationships with their supervisors were very positive. It was apparent that officers feel they can call their supervisors at any time with questions they may have. Those on days versus nights did describe slightly different relationships with their supervisors due to more down-time during night shifts. This down time allows officers to get to know their supervisors better and fosters a very fluid working relationship.

Recommendation 45.1: APD should continue working towards positive relationships between supervisors and officers, while looking for opportunities for daytime sergeants to interact more with their officers.

Recommendation 45.2: Supervisors should continue to routinely review officers' work and provide constructive feedback.

Finding 46: APD's performance evaluation process for sworn and non-sworn personnel remains unclear and does not currently operate according to policy.

During our interviews, we asked each sworn member about performance evaluations. Many officers could not recall being evaluated within the past year and several indicated it had been two to three

years since their last evaluation. Several officers also mentioned that they only had an evaluation from their supervisor when applying for a specialty assignment. It is important that all evaluations are consistent and timely in order to make a positive impact on the department. General Order 2.3.05 *Performance Evaluations and Career Development* clearly requires that performance evaluations be performed annually. APD also should have a clear process for supervisors to ensure accurate, timely, and meaningful evaluations of the personnel they oversee.

Recommendation 46.1: As part of General Order 2.3.05 *Performance Evaluations and Career Development*, APD should institute a specific procedure for ensuring all employees receive evaluations annually (e.g., officers receive reviews on their date-of-hire anniversary or all performance evaluations take place at the end of the fiscal year) with a designated command officer responsible for auditing. This will ensure all employees receive a current evaluation. This policy should also address procedures for employees who changed supervisors shortly before performance evaluations take place.

Recommendation 46.2: APD should include a designated time period for evaluations of non-sworn full-time employees in General Order 2.3.05 *Performance Evaluations and Career Development*.

Recommendation 46.3: On the Performance Evaluation Form, APD should include descriptions of all five choices (Outstanding, Excellent, Good, Needs Improvement, and Unsatisfactory) in the overall performance rating section.

Finding 47: APD personnel are mistrustful of the promotional and specialty assignment process and feel it lacks transparency. This mistrust contributes to difficulty retaining sworn personnel.

Interviewed personnel expressed a lack of trust in the current promotional and specialty assignment process. Some officers have been passed over multiple times for promotions or specialty assignments with no tangible explanations or feedback provided. This lack of transparency in the promotion process has resulted in low morale and distrust of internal procedures. Some officers expressed that they had heard that interview questions are given to preferred candidates the night before their interviews.

During the audit team's interviews, APD personnel expressed concerns about the retention of sworn officers. In particular, there is a perception that officers from racial or ethnic minority groups have been leaving the department at higher rates. Though some factors influencing retention are not fully within the department's control, others such as fairness and equity in promotions and special assignments, organizational culture, and internal procedural justice are and can be a major influence on personnel retention.

Recommendation 47.1: APD should develop a completely transparent and open promotional process. If an interview board is used, a clear explanation of topics covered and evaluation criteria used should be posted in advance. Any selection that deviates from the current ranking should require a written explanation be supplied to the person(s) skipped over.

Recommendation 47.2: To avoid the appearance of favoritism, APD should consider delegating the oral interview component to a neutral law enforcement agency of similar demographics. Detail this change in General Order 2.3.10 *Promotional Process* in section I.F.3.a.

Recommendation 47.3: APD should develop a completely transparent and open specialty assignment process that is disseminated in advance. APD should post the ranking of candidates, and individual evaluations should be supplied to applicants. APD should update General Order 1.2.15 *Specialized Assignments* as necessary to reflect these procedures.

Recommendation 47.4: APD should consider announcing all openings that occur in specialized units, even if it is not required as part of the Collective Bargaining Agreement.

Recommendation 47.5: If not already a standard practice, APD should engage in exit interviews with departing personnel. APD should analyze information gathered during exit interviews annually to ascertain whether recurring themes are present in personnel departures, and whether these can be addressed.

Finding 48: APD offers educational reimbursements for post-secondary educational expenses to eligible personnel.

APD offers educational reimbursement to eligible employees subject to the conditions in the current Collective Bargaining Agreement and the City of Albany Personnel Policy and Procedures Manual. Full-time employees with at least six months of service are eligible for reimbursement for up to one course per semester, with funds allocated on a first-come, first-served basis and a cap on reimbursement per credit. The current guidance notes that this reimbursement is not intended to assist employees in obtaining a degree, but instead to support them in supplemental training and instruction.

Recommendation 48.1: APD should continue to offer educational reimbursements for post-secondary educational expenses.

Recommendation 48.2: APD should investigate the possibility of revising the Collective Bargaining Agreement to indicate that the educational assistance program can be used to assist employees in obtaining a degree.

Finding 49: Officers are concerned about their safety and wellness.

During the audit team's interviews, we learned that many officers worry about their safety and wellness because of the climate of policing nationwide. It is important that APD takes steps to help officers feel safe and grounded in their daily duties. Not only will this ensure that officers have a safe space when they need it, but it will help with overall department morale. It is also important to give officers the space to engage in the Employee Fitness and Wellness Program.

Recommendation 49.1: APD should review its health and wellness offerings and update them, as required.

Recommendation 49.2: APD should ensure that all employees are aware of the health and wellness offerings provided by the department, including the Employee Assistance Program.

Recommendation 49.3: In General Order 2.3.30 *Employee Fitness and Wellness Program*, APD should revise policy in section II.C to allow employees to access the wellness facility at times other than just their meal period.

Section 6: Oversight and Accountability

The sixth section discusses our assessment of the various policies and procedures for oversight and accountability. First we discuss the data we reviewed and the subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

- Annual reports of data designated in various General Orders should be completed and housed on the APD website for all community members to easily access.
- APD participates in a long list of programs and should seek evaluations of these programs to determine their effectiveness and help allocate resources among the programs.
- There are community concerns that past proposed reforms have not been implemented, along with concerns that officers do not live in the City of Albany.

The Albany Community Policing Advisory Committee (ACPAC) was created in 2009 in response to the felt need for change within the community. The committee enables members to work with the City of Albany and the APD. In this collaboration, the committee provides a space for the discussion of community policing and helps promote partnerships in the community with the police department. The ACPAC also serves as an accountability mechanism for the department to ensure the community is receiving the information they need on a recurring basis.

Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected during interviews and a review of APD policies.

Findings and recommendations

Finding 50: Several APD General Orders require annual analyses of data on internal affairs investigations, use of force, recruitment, allegations of biased policing, and others.

Through interviews, we learned that reports on annual analyses of data are not released publicly nor are annual summary reports published. The lack of public release of reports and annual summaries shows low transparency and diminishes trust by the community in the City of Albany. It is important to increase transparency with these types of reports to follow through with APD's mission. The areas that are required to develop annual analyses are:

- Recruitment

- Internal Affairs Investigation
- Use of Force
- Bias Free Policing

Recommendation 50.1: APD should update all relevant policies to incorporate public release of results (in whole or part) from these annual analyses.

Recommendation 50.2: APD should ensure that these reports are posted and maintained on the APD website so they are readily accessible to the public.

Recommendation 50.3: Internal Affairs Reports and annual summaries should include breakdown analysis by race, when available.

Finding 51: APD leads or is involved in a number of programs and policing strategies covering a range of issues such as community engagement, diversion, mental health, homelessness, drug abuse, and delinquency prevention. However, there is limited evidence regarding the effectiveness of these programs in Albany.

During interviews and a review of policy, the audit team noted that APD leads or participates in a number of programs and initiatives, but these are not regularly evaluated. APD is involved in the following efforts that might benefit from evaluation:

- | | |
|---|---|
| • Equinox Chemical Dependency Counseling Center | • APD’s Crisis Intervention Team |
| • Narcotics Anonymous | • LEAD |
| • The Addictions Care Center of Albany | • Enhanced Supervision Unit |
| • Screening, Brief Intervention and Referral to Treatment (SBIRT) | • School Liaison Program |
| • Albany County CART Mobile | • TRaC |
| • CDPC Crisis Unit | • Persons in Need of Supervision (PINS) |
| • Equinox Mental Health Services | • Youth Aide |
| • “Now is the Time” Project AWARE | • Youth Court |

Community members discussed their frustrations specifically with the LEAD program and their perception of its effectiveness. Evaluations of this program and many others would allow APD to configure the appropriate resources for each program to strengthen their effectiveness.

Recommendation 51.1: The City of Albany and APD should coordinate to budget for external evaluations of some or all of these programs, through City budget allocations or through grant applications to state or federal funders, such as the Department of Justice (DOJ), Office of Justice Programs (OJP), BJA, National Institute of Justice (NIJ), or COPS.

Recommendation 51.2: The City of Albany and APD should coordinate with community leaders to gain community input on each program. Community members should continue playing an important role in the evaluation and review of these programs annually.

Finding 52: Communication with officers after changes to General Orders, Special Orders, and Training Bulletins could be improved.

Throughout our interviews and review of General Order 1.5.00 *Written Directive System*, we learned that officers only have to review changes to General Orders, Special Orders, and Training Bulletins and electronically sign that they completed the task. After these changes are made, it is important that supervisors explain these changes in roll-call trainings or during times when they can be available for questions. We did learn that some supervisors have taken this approach, but this may not be a standardized practice throughout the entire department.

Recommendation 52.1: APD should enforce required roll-call trainings after updates to General Orders, Special Orders, and Training Bulletins to ensure that the mission behind the change is properly communicated to all officers in the department.

Finding 53: APD currently assigns research, development, and strategic planning responsibilities to the Training Unit.

Under APD's General Order 1.1.15 *Planning and Research*, responsibility for research, development, and strategic planning lies with the Training Unit. The policy tasks the Training Unit with management planning, succession planning, strategic operational planning, policy research and development, and the establishment of department goals and objectives. The Training Unit has substantial and broad responsibilities related to its primary focus, as documented in APD's General Orders. Research, development, and strategic planning represent major responsibilities in a police department and should be prioritized as tasks unto themselves. Establishing a dedicated unit to oversee this work would likely also benefit APD by extending the responsibilities enumerated in General Order 1.1.15 *Planning and Research* to include such tasks as conducting program evaluations, establishing research partnerships with external organizations, developing a strategy for grants and other external funding, and conducting best practice and peer agency research.

Recommendation 53.1: APD should consider establishing a dedicated Research and Planning Unit, staffed by sworn and non-sworn personnel, rather than incorporating these responsibilities into the Training Unit.

Finding 54: The City of Albany is prohibited by New York State law from mandating a residency requirement for public safety personnel. The City does require that applicants to APD reside in the City in order to be hired, but APD does not have a residency requirement for officers and personnel to reside in the City of Albany after they are hired.

Knowing the community is pertinent to the daily duties of a police officer. Community members expressed concerns that many APD personnel do not reside in the City of Albany and do not have a

thorough understanding of each neighborhood because they are not as invested in the city. By creating a residency requirement, APD could ensure that officers coming to work every day are invested in the community because it holds special importance to them.

Recommendation 54.1: APD should review their personnel requirements to determine the feasibility of requiring that sworn officers reside in the City of Albany, including considerations related to the collective bargaining agreement.

Recommendation 54.2: APD should review its residency incentives and determine if they could be increased or improved.

Finding 55: The Community Policing Review Board and other community organizations have submitted formal reports and lists of recommendations to APD and the City of Albany in the past.

The Community Policing Review Board (CPRB) previously created a list of 10 policy reform recommendations that were sent to the Common Council and the Mayor of the City of Albany. In these recommendations, the CPRB called for the empowerment and defunding of the police department. The recommendations' common theme was to reimagine the APD to promote a reimagined society. Other community organizations, including the Center for Law and Justice, also reported sending information and recommendations to APD and the City of Albany. In addition, the Police Reform and Reinvention Collaborative is currently developing recommendations for consideration by APD and the City.

Recommendation 55.1: APD, along with the Mayor and the Common Council, should review past recommendations provided by CPRB and other groups and provide a formal response detailing anticipated action (or lack thereof) for each recommendation.

Recommendation 55.2: APD, along with the Mayor and the Common Council, should institute policies that all recommendations provided in good faith from community organizations should receive a formal response, including an explanation of what actions will be taken in response to recommendations; if not all recommendations are to be implemented, an explanation should be provided.

Section 7: Training

The seventh section discusses our assessment of the various policies and procedures for training in the APD. First we discuss the data we reviewed and our subsequent analysis. We then detail our emerging findings, analysis, and actionable recommendations.

Through our interviews, document review, and data analysis, the audit team discovered the following key themes:

- Annual in-service training curriculum should be updated to include various topics, including but not limited to racial bias and cultural sensitivity training.
- Training is not consistent across the department, and personnel feel they need more training to sufficiently do their jobs.

Data and analysis

In preparing findings and recommendations for this topic, the audit team drew from data collected during interviews, a review of APD policies, and APD's records of in-service training over the past five years as well as the APD Academy training curriculum and the New York State officer training curriculum.

Findings and recommendations

Finding 56: APD provides new supervisors with both classroom and field training within one year of promotion.

All newly promoted sergeants must complete 24 hours of classroom training through the Municipal Police Training Council or other equivalent provider, as well as 120 hours of supervised field training with a senior sergeant officer. Newly promoted lieutenants must complete classroom training, if not already completed, as well as 40 hours of supervised field training with a senior lieutenant. Formal supervisory training helps ensure consistency in supervision techniques and strategies, and it acclimates new supervisors to their new responsibilities and the systems and procedures associated with those responsibilities.

It is important that supervisors receive the information that they need to understand their duties and responsibilities and can convey the duties and responsibilities of higher level positions to their subordinates. Additionally, it is pertinent that supervisors be trained on how to effectively complete performance evaluations that foster a positive and collaborative working environment with those they supervise.

Recommendation 56.1: APD should continue to offer newly promoted supervisors classroom and field training and should regularly revisit the topics covered in the classroom training to ensure they reflect current departmental needs.

Recommendation 56.2: Revise General Order 1.1.15 *Planning and Research* in section IV.D to state that succession planning shall occur through formal training between supervisors, in-service trainings, and meetings rather than through informal training.

Recommendation 56.3: Revise General Order 4.1.05 *Training: Organization and Functions* in section III to ensure that new sergeants receive training on effective completion of performance evaluations.

Finding 57: Current training does not emphasize police racial relations and understanding.

Both community members and APD employees expressed a need for more racial bias and cultural awareness training. It appears that officers received training in the academy and have received sporadic training within the past two–three years. In addition, no officers, when asked, indicated they received post-academy training on constitutional policing. Training in these core areas is a foundation for officers to understand implicit bias and how to police a community which often views itself as over policed. Officers also asked for more scenario-based training, specifically focused on use of force and de-escalation. Scenario-based training provides officers with realistic training situations and will enable them to hone their skills in a safe environment. These critical topics require constant reinforcement and emphasis on their importance from police and City leadership.

Recommendation 57.1: APD should prioritize the following topics for upcoming in-service training: implicit and racial bias, cultural sensitivity, and concepts of constitutional policing. APD should involve minority communities in the development of training curriculum.

Recommendation 57.2: APD should develop in-person scenario-based training for use of force and de-escalation.

Recommendation 57.3: APD should enforce the policy in General Order 3.1.35 *Emotionally Disturbed Persons* to ensure that refresher mental health training is occurring on an annual basis and instate auditing mechanisms to ensure future compliance.

Recommendation 57.4: Revise General Order 4.1.05 *Training: Organization and Functions* section IV to state that all employees of the APD, including non-sworn personnel, should receive at least the following instruction:

- Racial bias in policing
- Cultural sensitivity

Finding 58: APD maintains an active Crisis Intervention Team program.

As described in General Order 3.1.35 *Emotionally Disturbed Persons*, APD maintains a cadre of officers trained in Crisis Intervention Team (CIT) approaches and procedures. All officers are trained in basic

procedures for interacting with community members exhibiting signs of mental illness. CIT officers complete additional training and deploy to calls involving emotionally disturbed individuals to assist the responding officers. CIT officers are able to make referrals to social services available in Albany County.

Recommendation 58.1: APD should maintain language in General Order 3.1.25 *Missing Persons* emphasizing that CIT trained officers and incidents involving CIT deployment may require additional time completing the call for service, including time spent referring individuals to services.

Recommendation 58.2: APD should conduct an annual analysis of CIT resources and needs, based on calls for service, CIT personnel deployments, shift coverage, and other relevant factors. APD should use the results of this analysis to establish the need to recruit and train additional CIT officers, in order to ensure there is full-time CIT coverage at sufficient levels to respond to all necessary calls.

Finding 59: APD relies on an online platform (PowerDMS) for most trainings.

Interviewed personnel expressed that the majority of the training they receive is conducted through an online learning system known as PowerDMS. Although many departments across the country have transitioned to online learning, the impact of in-person training is crucial to an officer's knowledge and learning platform. Certain training topics including procedural justice, implicit bias, and cultural diversity are extremely important and should regularly be held in-person rather than through an online platform. It is also important to hold in-person trainings to ensure that officers can learn these concepts in a scenario-based manner through role playing.

Recommendation 59.1: APD should hold in-person training every two years for the following training topics:

- Procedural Justice
- Implicit Bias
- Cultural Diversity

Finding 60: APD's Academy training does not appear to include training on community-oriented policing or collaborative community problem-solving, and it includes only a short unit on procedural justice, though it does include a strong focus on bias and diversity.

Based on a review of the curriculum for a recent Academy program, the audit team found no mention of training on community-oriented policing or collaborative community problem-solving (e.g., the SARA model), and we found that only two hours are allocated to procedural justice topics. APD does dedicate 19.5 hours to cultural diversity, history of racism, and implicit bias, which is laudable.

Recommendation 60.1: APD should review the allocation of topics and time in the Academy training to ensure that all officers are trained in community-oriented policing practices and

strategies for collaborative community problem-solving including the SARA model, and that they emphasize procedural justice in all aspects of their work.

Recommendation 60.2: APD should maintain or increase the time spent on the topics of cultural diversity, implicit bias, and history of racism.

Conclusion

APD's participation in this audit and their willingness to improve their department's practices show how eager the department is to make changes and increase community trust. APD is pushing to enhance trust and transparency, and they intend to keep the city safe and treat all equally. APD is struggling to connect with all community members through the various community policing practices. The CNA team offers 62 findings with accompanying recommendations based on policy review, a review of data, interviews with personnel and community members, and a review of previous proposed reforms. APD has much work to do to enhance community trust and make space for community members to participate. APD's partnership with Common Council members, personnel from the Mayor's Office, community leaders, and the youth in the City of Albany are essential to help make the proposed changes and ensure they are institutional.

Finding 61: An independent, objective, and ongoing assessment of APD's progress towards the recommendations in this report will be crucial to the implementation and sustainment of the proposed changes.

To assist APD in implementing changes, the independent audit firm should provide insight over a 12- to 18-month period. During this timeframe, the firm can thoroughly document the implementation of the recommendations in this report. The activities and tasks the independent audit firm should conduct may include the following:

- Work with the APD, community leaders, and the City of Albany in prioritizing the implementation of the recommendations.
- Work with the APD, community leaders, and the City of Albany to identify the prioritization and implementation of steps for each recommendation.
- Work with the APD to identify the resources necessary to implement each recommendation.
- Track and document APD's progress towards implementing each recommendation.
- Provide technical assistance as needed (e.g., subject expertise, assistance identifying potential funding sources, website development assistance, training curriculum development, staffing analyses) to support APD in implementing recommendations.
- Work with APD, community leaders, and the City of Albany to develop and release quarterly progress updates.

Recommendation 61.1: The City of Albany and APD should engage an independent audit firm to track and monitor progress towards implementing the recommendations in this report.

Appendix A: Acronyms

Acronym	Definition
APD	Albany Police Department
BWC	Body-worn camera
CIT	Crisis Intervention Team
COPS Office	Office of Community Oriented Policing Services
CPRB	Community Policing Review Board
CRU	Community Response Unit
EST	Emergency Services Team
GO	General Order
G.R.E.A.T.	Gang Resistance Education and Training
LEAD	Law Enforcement Assisted Diversion
NASRO	National Association of School Resource Officers
NEU	Neighborhood Engagement Unit
PEWS	Personnel Early Warning System
PINS	Persons in Need of Supervision
SARA	Scanning, Analysis, Response, and Assessment
SBIRT	Screening, Brief Intervention and Referral to Treatment
SNPPI	Safer Neighborhoods Through Precision Policing Initiative
SRO	School Resources Officer
TRaC	To Reach and Connect

Appendix B: Resources

Throughout the report, the audit team suggested various supplemental resources to aid the APD in understanding and implementing recommendations. Each of the resources listed are broken down and categorized by sections with their accompanying recommendation. Please note that this list of resources that APD should use in understanding and implementing each recommendation is not comprehensive.

Patrol operations, deployments, and traffic stops

To support implementation of Recommendation 1.1, the audit team recommends the following resource:

Peer connection with the Maricopa County Sheriff's Office.

To support implementation of Recommendation 2.1, the audit team recommends the following resources:

Bryant, K. M., Collins, G. M., & White, M. D. (2015). *Shawnee, Kansas, Smart Policing Initiative*. Washington, DC: Bureau of Justice Assistance, Smart Policing Initiative.

Bryant, K. M., Collins, G., & Villa, J. (2014). *An evaluation of data-driven approaches to crime and traffic safety in Shawnee, Kansas: 2010-2013*. Washington, DC: Bureau of Justice Assistance, Smart Policing Initiative.

Peer connection with the Maricopa County Sheriff's Office.

Peer connection with the Kansas City, KS, Police Department regarding Project Addressing Crime Together (ACT).

To support implementation of Recommendation 9.1, the audit team recommends the following resource:

Peer connection with the Atlanta, GA, Police Department.

To support implementation of Recommendations 10.1 and 10.2, the audit team recommends the following resources:

Haug, S. (2020). Audits and compliance reviews can strengthen body-worn camera programs. Retrieved from <https://bwctta.com/resources/commentary/audits-and-compliance-reviews-can-strengthen-body-worn-camera-programs>

Wohl, E., Bryson, B., Carleton, B., & Thorkildsen, Z. (2020). Maricopa County Sheriff's Office traffic stops quarterly review: Supervisor review findings and recommendations. Phoenix, AZ: Maricopa County Sheriff's Office. Retrieved from <https://www.mcsobio.org/traffic-stop-data>

Complaints and civil rights lawsuits

To support implementation of Recommendations 12.1, 13.1, 18.1, 18.2, and 19.1, the audit team recommends the following resource:

Office of Community Oriented Policing Services. (n.d.). Standards and guidelines for internal affairs: Recommendations from a community of practice. Washington, DC: US Department of Justice. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-p164-pub.pdf>

To support implementation of Recommendations 15.1 and 15.2, the audit team recommends the following resources:

Office of Community Oriented Policing Services. (n.d.). Standards and guidelines for internal affairs: Recommendations from a community of practice. Washington, DC: US Department of Justice. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-p164-pub.pdf>

Stephens, D. W. (2011). Police discipline: A case for change. Washington, DC: US Department of Justice, National Institute of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/234052.pdf>

To support implementation of Recommendations 16.1, 16.2, and 16.3, the audit team recommends the following resources:

Amendola, K. L., & Davis, R. C. (2019). Best practices in early intervention system implementation and use in law enforcement agencies. Arlington, VA: National Police Foundation. Retrieved from <https://www.policefoundation.org/publication/best-practices-in-early-intervention-system-implementation-and-use-in-law-enforcement-agencies/>

US Department of Justice. (2019). Law Enforcement Best Practices: Lessons Learned from the Field. Washington, DC: Office of Community Oriented Policing Services.

Walker, S. (2003). Early intervention systems for law enforcement agencies: A planning and management guide. Washington, DC: US Department of Justice, Office of Community Oriented Policing Services. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-w0085-pub.pdf>

Worden, R. E., Harris, C., & McLean, S. J. (2014). Risk assessment and risk management in policing. *Policing: An International Journal of Police Strategies & Management*.

Peer connection with the Los Angeles, CA, Police Department regarding their early intervention system, TEAMS II.

To support implementation of Recommendation 19.3, the audit team recommends the following resources:

Stephens, D. W., Scrivner, E., & Cambareri J. F. (2018). Civilian oversight of the police in major cities. Washington, DC: Office of Community Oriented Policing Services.

De Angelis, J., Rosenthal, R. S., & Buchner, B. (2016). *Civilian oversight of law enforcement: A review of the strengths and weaknesses of various models*. OJP Diagnostic Center.

Use of force

To support implementation of Recommendation 21.2, the audit team recommends the following resources:

Police Executive Research Forum. (2016). Critical issues in policing series: Guiding principles on use of force. Washington, DC.

International Association of Chiefs of Police. (2017). National consensus policy and discussion paper on use of force. Alexandria, VA.

To support implementation of Recommendation 23.1, the audit team recommends the following resource:

Police Executive Research Forum. (2016). Critical issues in policing series: Guiding principles on use of force. Washington, DC.

Community policing

To support implementation of Recommendations 30.2 and 39.2, the audit team recommends the following resources:

Ikerd, T., & Walker, S. (2010). *Making police reforms endure: The keys for success*. US Department of Justice, Office of Community Oriented Policing Services.

Diaz, A. (2019). Community policing: A patrol officer's perspective. Washington, DC: Office of Community Oriented Policing Services.

Santos, R. (2019). Community policing: A first-line supervisor's perspective. Washington, DC: Office of Community Oriented Policing Services.

To support implementation of Recommendation 30.3, the audit team recommends the following resources:

The Problem-Oriented Policing Center. "The SARA Model." Available online: <https://popcenter.asu.edu/content/sara-model-0>.

Eck, J. E. (2013). *Assessing responses to problems: An introductory guide for police problem solvers*. Washington, DC: Office of Community Oriented Policing Services.

To support implementation of Recommendation 20.5, the audit team recommends the following resources:

Peer connection to the West Memphis, AR Police Department

Peer connection to the Indianapolis, IN Police Department

To support implementation of Recommendation 31.1, the audit team recommends the following resources:

Office of Community Oriented Policing Services. (2014). Community policing defined. Washington, DC: US Department of Justice. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-p157-pub.pdf>

President's Task Force on 21st Century Policing. (2015). Final report of the President's Task Force on 21st Century Policing. Washington, DC: US Department of Justice, Office of Community Oriented Policing Services. Retrieved from https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

To support implementation of Recommendation 35.1, the audit team recommends the following resources:

National Association of School Resource Officers. (n.d.). Frequently asked questions. Retrieved from <https://www.nasro.org/faq/>

Office of Community Oriented Policing Services. (2019). School resource officers and school-based policing. Washington, DC: US Department of Justice. Retrieved from https://cops.usdoj.gov/pdf/SRO_School_Policing_Factsheet.pdf

Office of Community Oriented Policing Services. (n.d.). Supporting safe schools. Retrieved from <https://cops.usdoj.gov/supportingsafeschools>

To support implementation of Recommendations 34.1 and 34.2, the audit team recommends the following resources:

International Association of Chiefs of Police. (n.d.). Community member feedback as an effective tool for building and maintaining trust. Retrieved from https://www.theiacp.org/sites/default/files/243806_IACP_Community_Member_Feedback_p1.pdf

International Association of Chiefs of Police. (2015). IACP national policy summit on community-police relations: Advancing a culture of cohesion and community trust. Retrieved from https://www.theiacp.org/sites/default/files/all/c/CommunityPoliceRelationsSummitReport_Jan15.pdf

Scott, W., & Lazar, D. (2018). Community policing strategic plans. *Police Chief Online*. Retrieved from <https://www.policechiefmagazine.org/community-policing-strategic-plan/>

Diaz, A. (2019). Community policing: A patrol officer's perspective. Washington, DC: Office of Community Oriented Policing Services. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-w0876-pub.pdf>

McClellan, S., & Gustafson, B. (2019). Police-community planning. *Police Chief Online*. Retrieved from <https://www.policechiefmagazine.org/police-community-planning/>

Recruitment, hiring, and retention

To support implementation of Recommendation 42.1, the audit team recommends the following resources:

Office of Community Oriented Policing Services. (2009). Law enforcement recruitment toolkit. Washington, DC: US Department of Justice. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-p171-pub.pdf>

Violence Reduction Network. (2016). VRN webinar: Recruiting a diverse police department through digital outreach. Retrieved from <https://www.nationalpublicsafetypartnership.org/clearinghouse/Resource/370>

Copple, J. E. (2017). Law enforcement recruitment in the 21st century: Forum proceedings. Washington, DC: Office of Community Oriented Policing Services. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-w0830-pub.pdf>

Collaborative Reform Initiative Technical Assistance Center. (2020). Report out from Rhode Island regional roundtable on recruitment, hiring, and retention. Washington, DC: US Department of Justice. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-w0899-pub.pdf>

This report includes seven additional resources to help agencies address recruitment, hiring, and retention challenges. Please see the *Additional Resources* section on Page 5 of the above document.

Bradley, K. (2020). Recruiting and retaining officers in small and rural agencies. Washington, DC: Office of Community Oriented Policing Services. Retrieved from <https://cops.usdoj.gov/RIC/Publications/cops-p426-pub.pdf>

Linos, E. (2018). More than public service: A field experiment on job advertisements and diversity in the police. *Journal of Public Administration Research and Theory*, 28(1), 67–85.

Police Executive Research Forum. (2019). The workforce crisis, and what police agencies are doing about it. Washington, DC.

Morison, K. P. 2017. Hiring for the 21st century law enforcement officer: Challenges, opportunities, and strategies for success. Washington, DC: Office of Community Oriented Policing Services.

Peer connection with the Denver, CO Police Department

Peer connection with the Arlington, TX Police Department

To support the implementation of Recommendation 43.1, the audit team recommends the follow resources:

Peer connection with the Swampscott, MA Police Department

Peer connection with the Burlington, MA Police Department

To support the implementation of Recommendation 49.1, the audit team recommends the following resources:

Bradley, K. D. (2020). Promoting positive coping strategies in law enforcement: Emerging issues and recommendations. Officer Safety and Wellness Group Meeting Summary. Washington, DC: Office of Community Oriented Policing Services.

Police Executive Research Forum. (2018). Building and sustaining an officer wellness program: Lessons from the San Diego Police Department. Washington, DC: Office of Community Oriented Policing Services.

Hill, J., Whitcomb, S., Patterson, P., Stephens, W. D., & Hill, B. (2014). Making officer safety and wellness priority one: A guide to educational campaigns. Washington, DC: Office of Community Oriented Policing Services.

Peer connection with the San Antonio, TX Police Department

Oversight and accountability

To support the implementation of Recommendation 51.1, the audit team recommends the following resources:

Office of Community Oriented Policing Services grants: <https://cops.usdoj.gov/grants>

Bureau of Justice Assistance grants: <https://bja.ojp.gov/funding>

National Institute of Justice grants: <https://nij.ojp.gov/funding>

To support the implementation of Recommendation 53.1, the audit team recommends the follow resources:

Peer connection with the Lowell, MA, Police Department

Peer connection with the Los Angeles, CA Police Department

Peer connection with the Chicago, IL Police Department

Bond, B. J., & Gabriele, K. R. (2018). Research and planning units: An innovation instrument in the 21st-century police organization. *Criminal Justice Policy Review*, 29(1), 67–88.

Training

No specific resources.

Appendix C: Data Reviewed by Audit Team

Type	Document
General Order	GO 1.1.00
General Order	GO 1.1.05
General Order	GO 1.1.10
General Order	GO 1.1.15
General Order	GO 1.1.20
General Order	GO 1.2.00
General Order	GO 1.2.05
General Order	GO 1.2.10
General Order	GO 1.2.15
General Order	GO 1.2.20
General Order	GO 1.2.25
General Order	GO 1.3.00
General Order	GO 1.3.05
General Order	GO 1.4.00
General Order	GO 1.5.00
General Order	GO 1.5.05
General Order	GO 2.2.10
General Order	GO 2.2.15
General Order	GO 2.2.20
General Order	GO 2.2.25
General Order	GO 2.3.00
General Order	GO 2.3.05
General Order	GO 2.3.10
General Order	GO 2.3.15
General Order	GO 2.3.20
General Order	GO 2.3.25
General Order	GO 2.3.30
General Order	GO 2.3.35
General Order	GO 2.3.40
General Order	GO 2.3.45
General Order	GO 2.3.55

Type	Document
General Order	GO 2.4.00
General Order	GO 2.4.05
General Order	GO 2.4.10
General Order	GO 2.4.15
General Order	GO 2.4.20
General Order	GO 2.5.00
General Order	GO 2.5.05
General Order	GO 2.5.10
General Order	GO 2.5.20
General Order	GO 2.6.05
General Order	GO 3.1.00
General Order	GO 3.1.05
General Order	GO 3.1.10
General Order	GO 3.1.15
General Order	GO 3.1.30
General Order	GO 3.1.30
General Order	GO 3.1.35
General Order	GO 3.1.60
General Order	GO 3.1.70
General Order	GO 3.2.00
General Order	GO 3.2.15
General Order	GO 3.3.00
General Order	GO 3.3.10
General Order	GO 3.3.30
General Order	GO 3.4.00
General Order	GO 3.4.05
General Order	GO 3.4.30
General Order	GO 3.5.00
General Order	GO 3.5.05
General Order	GO 3.6.00
General Order	GO 3.7.00
General Order	GO 3.8.00
General Order	GO 3.8.05
General Order	GO 3.8.20
General Order	GO 3.9.05
General Order	GO 3.9.15

Type	Document
General Order	GO 4.1.00
General Order	GO 4.1.05
General Order	GO 4.1.10
General Order	GO 4.1.15
General Order	GO 4.2.00
General Order	GO 4.2.05
General Order	GO 4.2.10
General Order	GO 4.2.15
General Order	GO 5.1.00
General Order	GO 5.1.05
General Order	GO 5.1.15
General Order	GO 5.1.20
General Order	GO 6.1.00
General Order	GO 6.1.05
General Order	GO 6.1.10
General Order	GO 6.1.15
General Order	GO 6.1.20
Training Information	Training Topics for Academy
Training Information	Training Topics for In-Service
Arrests Data	2015 - 2019
Calls For Service Data	2015 - 2019
Civil Rights Claims	2015-Present
Complaint Data	2015-2017, 2019
Personnel Data	All APD personnel, sworn and non-sworn
Traffic Stops Data	2015–2019
Use of Force Data	2015–2017, 2019

Appendix D: Table of Findings and Recommendations

The below table is a list of findings and recommendations noted in the report. Along with each finding, we have designated a suggested timeframe for APD to implement the recommendation(s). Each designation is defined as:

- Short-term: Implementation is to be completed within 3 months.
- Medium-term: Implementation is to be completed within 1 year.
- Long-term: Implementation is to be completed within 2 years.

Also included in the table is a designation of required resources to aid the APD in implementation of each recommendation. The categories are listed below.

- Funding
- Training
- Personnel
- Technology
- Research and analysis
- Policy
- Community outreach
- Organizational change

It is important to note that technology includes physical technology, software, and IT resources and refers to new purchases, changes, and upgrades.

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Finding No.	Finding	Recommendation	Suggested timeline	Required resources
1	APD does not collect race data for all traffic stops and does not include variables beyond date, time, address, age, sex, and sometimes race in their traffic stop databases.	<p>1.1 APD should revise their traffic stop data collection protocols to achieve the following objectives:</p> <ul style="list-style-type: none"> • Consolidate all traffic stops into a single data system • Collect driver race data for all traffic stops, as it is collected for stops ending in warnings and arrests • Record stop start and end time • Record stop latitude and longitude • Record the reason for the stop in a closed response (dropdown menu) format • Record the reason for the citation or the arrest, as applicable, in a closed response (dropdown or checkbox menu) format • Record whether a search was performed during the stop, the type of search (e.g., consent search, search incident to arrest, search under plain view doctrine, inventory search during vehicle impoundment), and whether a seizure resulted from the search 	Medium-term	Technology
2	APD's traffic stop activity has decreased substantially in the last five years.	2.1 APD should assess why traffic stop activity has decreased by more than half in the past five years and ensure the department is being responsive to community concerns about traffic safety and enforcement.	Medium-term	Research and analysis
3	The majority of APD traffic stops result in a citation.	3.1 APD should review traffic stop policies and procedures and assess implementing an education-based approach to traffic enforcement that emphasizes warnings over citations.	Medium-term	Policy
4	APD's "other" call type category represents a substantial number of calls, and APD has 48 categories	4.1 APD should analyze calls categorized under the "other" category and determine whether these calls should have been included in existing categories and whether additional categories are needed to capture information from these calls.	Medium-term	Technology, Research and analysis

	with fewer than 100 calls over five years.	4.2 APD should consider whether relatively low use call types (representing less than 20 calls per year on average) could be consolidated with other call types, such as the "other" category.	Medium-term	Technology, Research and analysis
5	Community members have concerns about disparate arrests for quality of life issues and resisting arrest charges.	5.1 APD should review all incidents involving resisting arrest charges or allegations, including a thorough review of body-worn camera footage, with particular attention to potential racial disparities. If necessary, APD should issue additional guidance and training about the use of the resisting arrest charge to ensure it is being used correctly.	Medium-term	Research and analysis
		5.2 APD should review procedures on quality of life issues and ensure that no disparate actions are being taken against minority communities.	Medium-term	Research and analysis
6	Patrol officers are aware of policy related to high-risk stops (stops in which the officer knows or reasonably believes the driver or other vehicle occupants are armed and dangerous); however, some lack experience in these particular events..	6.1 APD should have patrol supervisors discuss high-risk stops on a regular basis at roll call to ensure that new and veteran officers are consistently receiving a refresher on protocol.	Short-term	Training
7	APD conducts evaluations when their Emergency Services Team (EST) is deployed.	7.1 APD should implement a system in which larger and more high-profile operations are evaluated by an outside evaluator who did not participate in the operation.	Long-term	Research and analysis, Funding
8	APD has fully deployed BWCs to patrol personnel and is in the process of deploying BWCs to detective personnel.	8.1 APD should continue its practices related to BWC use and activation for patrol and traffic safety personnel.	Not applicable	
		8.2 APD should roll out BWCs in the detective unit as efficiently and expeditiously as possible.	Short-term	Technology
9	No policy guidance covers how officers are to use the live stream feature on their BWCs.	9.1 APD should clearly state in General Order 3.2.15 Body Worn Cameras how and when the Axon View should be used for live streaming purposes.	Short-term	Policy

10	APD BWC policy lacks established compliance and auditing procedures.	10.1 The supervisory review of BWC footage should be a randomized process in which the supervisors are given the exact videos they are to review.	Short-term	Policy
		10.2 APD should consider adding language to their BWC policy stating that officers are to tag their videos immediately after a call before moving on to a future call.	Short-term	Policy
11	Towing and removing vehicles in the City that are abandoned are the sole responsibilities of a small unit.	11.1 APD should consider shifting duties to the traffic unit for the removal of abandoned/junk vehicles to ensure more time for the NEU beat officers to engage with their community.	Medium-term	Policy, Organizational change
12	APD personnel do not have a clear understanding of the complaint process.	12.1 APD should clearly define the process of informing department employees of complaints against them and their required actions and associated rights.	Medium-term	Training
		12.2 APD should clearly define the process for officers to deliver internal complaints when the complaint is within their chain of command.	Medium-term	Policy
13	APD would benefit from including additional fields in their complaint database to facilitate more detailed analysis of the complaint process and outcomes and allow the identification of potential disparities in complaint adjudication.	13.1 APD should add fields in the complaint database to indicate the allegation type, severity, and specific corrective action taken in response to sustained complaint allegations.	Medium-term	Technology
14	APD's policy on the investigation of complaints does not include definitions for "office case" and "satisfied" outcomes.	14.1 APD should revise General Order 2.4.05 to include definitions for the office case and satisfied outcomes.	Short-term	Policy
15	APD's policies for discipline are clearly described in its	15.1 APD should develop a discipline matrix to ensure disciplinary decisions are fair and equitable for all personnel.	Medium-term	Policy

	General Orders, include detailed processes and procedures, and include non-punitive options, progressive disciplinary consequences, and an appeals process. However, APD does not include a disciplinary matrix in the policy.	15.2 APD should regularly analyze discipline decisions in comparison with presumptive discipline options in the matrix and determine whether disparities emerge with respect to discipline based on officer ethnicity, race, or gender.	Medium-term	Research and analysis
16	APD uses a Personnel Early Warning System (PEWS) to support employees using non-disciplinary referrals to incorporate positive correction actions to address performance issues before they become critical.	16.1 APD should review the current list of five indicators included in PEWS against best practices and peer agencies and consider expanding the list to include additional indicators that are less serious and may reflect stress and mental health early indicators, such as lateness or absenteeism and assaults or injuries on the job. During this review, APD should also consider consolidating or redefining indicators that overlap; for example, citizen complaints and use of force incidents that generate an internal affairs investigation and result in a single incident being counted twice.	Long-term	Policy, Research and analysis
		16.2 APD should review the current threshold values for each indicator against best practices, internal data, and peer agencies' methods for establishing thresholds.	Long-term	Policy, Research and analysis
		16.3 APD should evaluate the effectiveness of PEWS interventions by tracking employee performance on relevant indicators after the officer receives counseling, training, or other interventions. APD should consider the use of an external evaluator to perform this analysis and the possibility of publishing the results to contribute to the knowledge base in the field regarding early intervention system effectiveness.	Long-term	Research and analysis, Funding
17	APD policy does not specify who investigates allegations of biased policing.	17.1 In General Order 2.4.00 Office of Professional Standards: Duties and Responsibilities, consider adding a statement under Section 1.B that Office of Professional Standards Detectives shall investigate allegations of biased policing.	Short-term	Policy, Personnel

18	Complaints submitted by community members and external parties go through many stages throughout the investigations process.	18.1 APD should review and revise the procedures for intake, investigation, and disposition of community complaints to streamline the process.	Medium-term	Policy
		18.2 APD should publicize the complaint process widely so that the community is fully informed about how complaints are handled.	Medium-term	Community outreach
19	Community members are mistrustful of the APD complaint process.	19.1 APD should work with community leaders to revise the community complaint process to foster an environment in which community members feel safe filing a complaint and know that they will receive regular updates as well as notice of the final disposition of the complaint.	Medium-term	Community outreach
		19.2 APD should follow up on "office case" and "satisfied" dispositions carefully to ensure that the community member who submitted the complaint is notified of that disposition and its definition, and does not expect further action.	Medium-term	Policy, Community outreach
		19.3 The City of Albany should review the roles, responsibilities, and authority of the CPRB, including considering the implementation of independent investigative authority and associated powers.	Medium-term	Policy
20	All personnel should exhibit professional behavior at all times.	20.1 Change the language in General Order 2.2.15 Harassment in the Workplace to remove the requirement that a co-worker must be present.	Short-term	Policy
21	APD's Use of Force Core Principles lacks specificity on whether force is justified when an officer or bystander's life could be in danger.	21.1 APD should consider revising General Order 1.3.00 Use of Force – Lethal Weapons with the following changes: <ul style="list-style-type: none"> • Under Section I.A.1.a, "The suspect is acting or threatening to cause death or serious physical injury to the officer or others." • Under Section I.A.1.a, "The suspect has the means or instrumentalities to injure an officer or others." • Under Section I.A.1.a, "The suspect has the opportunity and ability to use the means of instrumentalities to cause death or serious physical injury." 	Short-term	Policy

		<ul style="list-style-type: none"> Under Section I.A.b.i, "Felony offense involving the infliction of serious physical injury or death." Add language to Section I.A.c to include the suspect threatening to cause death or serious injury to the officer or others, with the means to do so. 		
		21.2: APD should review General Order 1.3.00 Use of Force – Lethal Weapons to ensure it is clear when deadly force is authorized and to specify it is prohibited in all other circumstances.	Short-term	Policy
22	APD's current policies allow for the use of orthochlorobenzal malononitrile (CS gas) in response to unlawful assembly and for the purposes of crowd dispersal, with approval from the incident commander overseeing response, after an audible warning of intended use, and with Emergency Medical Services on-site.	22.1 APD should review and revise their policy on the use of CS gas in response to unlawful assembly and for crowd dispersal purposes to align with emerging recommended practices regarding maintaining community trust during protest events. At a minimum, APD should expand this section of policy to clearly enumerate the specific circumstances in which CS gas can or cannot be used for these purposes.	Short-term	Policy
		22.2 APD should ensure that all officers and incidents are compliant with current policy regarding the use of CS gas, particularly related to required notification, presence of Emergency Medical Services, and disposal of expired CS gas canisters.	Short-term	Training, Research and analysis
23	APD's policies on use of force do not currently include an explicit sanctity of life statement.	23.1 APD should revise GO 1.3.00 Use of Force – Less Lethal Weapons and 1.3.05 Use of Force – Lethal Weapons to include a sanctity of life statement presented clearly under such a header at the beginning of the policy.	Short-term	Policy
24	APD does not publish annual reports on their use of force incidents.	24.1 APD should produce a summary report annually on the use of force within the department that is publicly available to the entire City of Albany, New York.	Medium-term	Research and analysis, Community outreach
		24.2 APD should revise General Order 1.3.05 Use of Force – Lethal Weapons, section V.A. to include language stating that a summary report for the public on use of force incidents will be available on an annual basis.	Medium-term	Policy

25	APD codes use of force incidents so that the specific combination of incident, involved officer, type of force, incident of force, and involved community member can be discerned from standardized data fields.	25.1 APD should maintain its practice of documenting use of force incidents at the level of the incident plus the involved officer plus the involved community member.	Not applicable	
26	APD codes only one assessment of community member mental status for use of force incidents, even for incidents involving multiple community members.	26.1 APD should assess each involved community member's mental status individually using current policy for making these assessments and note each separately in the use of force report.	Medium-term	Training, Technology
27	APD includes an "other" category for use of force type.	27.1 APD should review use of force incidences coded as "other," including interviewing involved officers for clarification if necessary, and add new use of force type categories necessary to eliminate the "other" category.	Long-term	Research and analysis, Technology
28	Some use of force incident narratives are difficult to understand because of vague pronoun references, use of first person, and the lack of officer status designation in the APD use of force database.	28.1 APD should establish guidance for officers writing use of force incident reports, including avoiding the use of pronouns (he or she) in favor of names and eliminating the use of first-person narratives.	Medium-term	Training
		28.2 APD should implement a field in the use of force database to designate each officer by their status as related to the use of force (e.g., involved officer vs. witness).	Medium-term	Technology
29	For use of force incidents in which multiple officers are on the scene, APD's current policy is for a single officer to submit an incident narrative, with other officers on the	29.1 APD should revisit its policy of requiring only a single use of force incident narrative submission and consider requiring each officer who used force during the incident to submit an independently generated narrative. Officers involved in the incident as witnesses should co-sign these narratives to indicate they reflect the incident accurately.	Short-term	Policy

	scene co-signing that narrative.			
30	Since 2009, the APD has committed to a community policing and engagement philosophy and culture. However, this commitment is not present throughout the agency, and the community does not feel APD genuinely connects with community members in a substantive manner. There is a clear disconnect between APD's intentions, policy, and leadership and the experience of the community.	<p>30.1 APD should ensure adequate staffing to prioritize officers' attendance at community engagement activities.</p> <p>30.2 APD should move towards a philosophy on community policing and engagement that is encouraged and embraced by all department personnel, rather than being conducted only by the NEU.</p> <p>30.3 APD should continue current community policing and engagement efforts with an emphasis on coordinating and prioritizing proactive problem-solving for quality of life issues. APD should ensure officers are trained in and actively implement the SARA model regularly as part of their engagement with the community.</p> <p>30.4 APD should increase community policing and engagement training for the entire department. APD should use a combination of in-house and outside contractors to ensure a wide sample of best practices.</p> <p>30.5 APD should develop new community policing strategies beyond pop-up cookouts, Coffee with a Cop, etc., offering a more formal presence in the community to create rapport with the community. These new efforts should be intertwined with community leaders' efforts to create a collaborative working environment.</p>	<p>Long-term</p> <p>Long-term</p> <p>Medium-term</p> <p>Medium-term</p> <p>Medium-term</p>	<p>Personnel</p> <p>Training</p> <p>Training</p> <p>Training, Funding</p> <p>Community outreach</p>
31	APD's Vision, Mission, and Core Values, as documented in General Order 1.1.00, do not include an explicit commitment to community policing.	31.1 APD should incorporate community policing philosophy and associated principles explicitly into their Vision, Mission, and Core Values.	Short-term	Policy
32	APD has a strong commitment to recognizing officers for outstanding achievements.	32.1 APD should continue giving out these two achievement awards to continue working towards positive engagements with the community.	Not applicable	

33	The community is under the impression that the NEU is understaffed and has been reduced in staffing and resources recently.	33.1 When staffing levels allow, APD should reassign officers back to the NEU to ensure the unit can fully reach all neighborhoods within the city and deploy NEU officers seven days a week.	Long-term	Personnel
		33.2 APD should consider combining NEU officers, SROs, and Community Service Officers into a combined unit that focuses on Community Policing and Engagement under the command of a senior leader and that incorporates non-sworn personnel such as case workers, outreach personnel, and victims' advocates. This would provide a pool of officers and additional staff for engagement activities and allow increased assignments outside of the Monday through Friday day shift.	Long-term	Personnel, Organizational change
34	The selection process for officers assigned to the NEU lacks a formal structure.	34.1 APD should explore changing the NEU selection process (within the requirements of the collective bargaining agreement) to include community member input, since community members best understand what characteristics they would like to see in their assigned NEU officers.	Medium-term	Personnel, Community outreach
		34.2 APD should review officers currently assigned to the NEU to ensure that all exhibit a clear community orientation and a problem-solving attitude, and are endorsed by the community members they serve.	Short-term	Personnel
35	APD assigns SROs to the local school district, but this program is under-resourced. Stated SRO roles, per policy, do not include counseling and mentoring or emergency planning and critical incident response.	35.1 APD should ensure that GO 1.2.10 Diversion Programs and other SRO guidance are updated to reflect SROs' commitment to community policing, youth engagement, and recruiting, and to acknowledge SROs' role in emergency planning and critical incidents.	Short-term	Policy
		35.2 APD should develop a plan to expand, over time, the number of SROs to meet NASRO's recommended officer-to-student ratio in served schools.	Long-term	Personnel
		35.3 APD should reconfigure the assignments of officers to assign them according to geographic areas so that some officers can serve multiple schools.	Medium-term	Personnel

36	SROs do not contribute to the "school-to-prison" pipeline.	36.1 APD should continue to encourage SROs to develop innovative programs to encourage positive student behavior and to minimize their contribution to the school-to-prison pipeline.	Medium-term	Personnel
37	APD engages in formal youth engagement programs and activities but would benefit from gathering community input on the effectiveness of these programs and engaging in informal youth engagement outside of official programs.	37.1 APD should maintain and, in some cases, revitalize existing youth engagement programs, based on community input.	Short-term	Personnel
		37.2 APD should develop policies to support officers engaging informally with youth, including opportunities out of uniform and in venues naturally used by youth in the community, such as after-school community center recreation programs.	Medium-term	Policy, Personnel
38	Current LEAD policies and procedures leave the decision to refer eligible individuals to LEAD at the officer's discretion.	38.1 APD officers should refer all individuals meeting the eligibility criteria and not falling in an exclusion category to LEAD.	Short-term	Policy
		38.2: APD should collect data about LEAD referrals and non-referrals and regularly analyze this data to understand the reasons for non-referrals and the impact of specific exclusion criteria, particularly the criteria that the complainant is willing to decline prosecution.	Medium-term	Research and analysis
39	Patrol officers recently started conducting 20 minutes of foot patrol on each shift.	39.1 In General Order 3.1.00 Patrol Function under section II, APD should add letter D. A 20-minute foot patrol is required on each shift, as permitted, to engage with the community and strengthen relationships.	Short-term	Policy
		39.2 APD must increase buy-in from officers about this patrol activity to ensure that officers are interacting with the community in a positive way.	Short-term	Personnel, Training
40	APD has a clear explanation of the difference between protests and civil disturbances and demonstrates a strong emphasis on connecting with leaders of groups planning these events.	40.1 APD should add language to General Order 3.9.05 Pre-planned/High Risk Situations section IV.C.2.a that personnel shall attempt to ascertain the identity of leaders of the protests or civil disturbances.	Short-term	Policy
		40.2 APD should add language to General Order 3.9.05 section IV.C.2.a that states, "Supervisor shall attempt to open lines of communication with the leader of the group to ensure it remains a	Short-term	Policy

		peaceful protest." APD should make this change in section III for high-risk situations as well.		
41	APD has a website embedded within the City of Albany's landing site; however, APD would benefit from a more modern website.	41.1 Depending on IT infrastructure, APD should consider creating its own website. If this is not possible, APD should reconstruct the current landing page on the City of Albany's site.	Long-term	Technology
		41.2 APD should make the following website content changes: <ul style="list-style-type: none"> • On the home page, move the mission and vision to the very top to ensure it is the first information that community members see when they visit the website. • Under the Administration landing page, APD should include a current organizational chart with names and positions. • Add information about the complaint process, preferably including the option to submit complaints online or via a digital form sent by email. • Add pages to host publicly released reports, such as annual use of force reports, complaint analysis, etc., so they are easily accessible to the public. 	Medium-term	Technology
		41.3 APD should review all data and information on the website and ensure it is up to date and reflects current practices.	Short-term	Technology
		41.4: APD should make all General Orders available on their website publicly.	Short-term	Technology
42	APD maintains a documented recruitment plan for full-time sworn personnel, which includes a focus on recruiting individuals from underrepresented demographics and a goal for APD personnel demographics to reflect the community.	42.1 APD should continue to maintain and regularly update their strategic plan for recruitment, with particular attention to the effectiveness of its recruiting strategies.	Medium-term	Research and analysis
		42.2 APD should develop a similar recruitment plan for full-time non-sworn personnel.	Medium-term	Policy
		42.3 APD should develop a publicly releasable version of the annual recruitment plan analysis and make this report available to the community.	Medium-term	Community outreach
43	Though APD's recruitment plan emphasizes recruiting	43.1 The City of Albany should explore options locally and at the state level to implement a diversity preference for hiring, including	Long-term	Policy

	members of racial or ethnic minority groups, personnel demographics do not reflect community demographics. This lack of representation may be partly due to disparities in the hiring process.	the possibility of moving away from the civil service hiring system and petitioning for a change in state legislation.		
		43.2 APD should implement a system or database to track applications and applicant progress through the hiring process and analyze this data annually to identify racial, ethnic, or gender-based disparities at each stage of the hiring process. If such disparities are identified, APD should investigate the root causes and, if possible, implement programs to ameliorate those disparities. In particular, community members expressed concerns about applicants from ethnic or racial minority groups failing to meet the physical fitness requirements at a disparate rate. APD could address this proactively by providing additional training or other options to prepare applicants for the test.	Short-term	Technology, Policy
		43.3 APD should disclose the diversity of the department to the public on an annual basis to promote transparency.	Medium-term	Community outreach
44	APD does not currently track data on promotion applications or applicants and promotion decisions in a formal system or database.	44.1 APD should establish a system to collect and retain data about the promotional process, including applicants, applicants' demographic information, relevant data considered for promotion decisions (e.g., Civil Service Exam results), and outcomes.	Short-term	Technology, Policy
		44.2 APD should analyze promotion data annually to identify racial, ethnic, or gender-based disparities in the promotion process. If such disparities exist, APD should investigate the root causes and, if possible, implement programs to ameliorate those disparities.	Medium-term	Research and analysis
45	Relationships between supervisors and their officers are very positive.	45.1 APD should continue working towards positive relationships between supervisors and officers, while looking for opportunities for daytime sergeants to interact more with their officers.	Not applicable	
		45.2 Supervisors should continue to routinely review officers' work and provide constructive feedback.	Not applicable	
46	APD's performance evaluation process for sworn and non-sworn personnel remains	46.1 As part of General Order 2.3.05 Performance Evaluations and Career Development, APD should institute a specific procedure for ensuring all employees receive evaluations	Medium-term	Policy

	unclear and does not currently operate according to policy.	annually (e.g., officers receive reviews on their date-of-hire anniversary or all performance evaluations take place at the end of the fiscal year) with a designated command officer responsible for auditing. This will ensure all employees receive a current evaluation. This policy should also address procedures for employees who changed supervisors shortly before performance evaluations take place.		
		46.2 APD should include a designated time period for evaluations of non-sworn full-time employees in General Order 2.3.05 Performance Evaluations and Career Development.	Medium-term	Policy
		46.3 On the Performance Evaluation Form, APD should include descriptions of all five choices (Outstanding, Excellent, Good, Needs Improvement, and Unsatisfactory) in the overall performance rating section.	Short-term	Policy
47	APD personnel are mistrustful of the promotional and specialty assignment process and feel it lacks transparency. This mistrust contributes to difficulty retaining sworn personnel.	47.1 APD should develop a completely transparent and open promotional process. If an interview board is used, a clear explanation of topics covered and evaluation criteria used should be posted in advance. Any selection that deviates from the current ranking should require a written explanation be supplied to the person(s) skipped over.	Medium-term	Personnel
		47.2 To avoid the appearance of favoritism, APD should consider delegating the oral interview component to a neutral law enforcement agency of similar demographics. Detail this change in General Order 2.3.10 Promotional Process in section I.F.3.a.	Long-term	Policy
		47.3 APD should develop a completely transparent and open specialty assignment process that is disseminated in advance. APD should post the ranking of candidates, and individual evaluations should be supplied to applicants. APD should update General Order 1.2.15 Specialized Assignments as necessary to reflect these procedures.	Medium-term	Personnel
		47.4 APD should consider announcing all openings that occur in specialized units, even if it is not required as part of the Collective Bargaining Agreement.	Short-term	Policy, Personnel

		47.5 If not already a standard practice, APD should engage in exit interviews with departing personnel. APD should analyze information gathered during exit interviews annually to ascertain whether recurring themes are present in personnel departures, and whether these can be addressed.	Short-term	Policy, Personnel
48	APD offers educational reimbursements for post-secondary educational expenses to eligible personnel.	48.1 APD should continue to offer educational reimbursements for post-secondary educational expenses.	Not applicable	
		48.2 APD should investigate the possibility of revising the Collective Bargaining Agreement to indicate that the educational assistance program can be used to assist employees in obtaining a degree.	Long-term	Policy
49	Officers are concerned about their safety and wellness.	49.1 APD should review its health and wellness offerings and update them, as required.	Medium-term	Policy
		49.2 APD should ensure that all employees are aware of the health and wellness offerings provided by the department, including the Employee Assistance Program.	Medium-term	Personnel
		49.3 In General Order 2.3.30 Employee Fitness and Wellness Program, APD should revise policy in section II.C to allow employees to access the wellness facility at times other than just their meal period.	Medium-term	Policy
50	Several APD General Orders require annual analyses of data on internal affairs investigations, use of force, recruitment, allegations of biased policing, and others.	50.1 APD should update all relevant policies to incorporate public release of results (in whole or part) from these annual analyses.	Long-term	Policy, Community outreach
		50.2 APD should ensure that these reports are posted and maintained on the APD website so they are readily accessible to the public.	Long-term	Community outreach
		50.3 Internal Affairs Reports and annual summaries should include breakdown analysis by race, when available.	Medium-term	Policy
51	APD leads or is involved in a number of programs and policing strategies covering a range of issues such as	51.1 The City of Albany and APD should coordinate to budget for external evaluations of some or all of these programs, through City budget allocations or through grant applications to state or federal funders, such as the Department of Justice (DOJ), Office	Long-term	Funding

	community engagement, diversion, mental health, homelessness, drug abuse, and delinquency prevention. However, there is limited evidence regarding the effectiveness of these programs in Albany.	of Justice Programs (OJP), BJA, National Institute of Justice (NIJ), or COPS.		
		51.2 The City of Albany and APD should coordinate with community leaders to gain community input on each program. Community members should continue playing an important role in the evaluation and review of these programs annually.	Medium-term	Research and analysis
52	Communication with officers after changes to General Orders, Special Orders, and Training Bulletins could be improved.	52.1 APD should enforce required roll-call trainings after updates to General Orders, Special Orders, and Training Bulletins to ensure that the mission behind the change is properly communicated to all officers in the department.	Medium-term	Training
53	APD currently assigns research, development, and strategic planning responsibilities to the Training Unit.	53.1 APD should consider establishing a dedicated Research and Planning Unit, staffed by sworn and non-sworn personnel, rather than incorporating these responsibilities into the Training Unit.	Long-term	Organizational change
54	The City of Albany is prohibited by New York State law from mandating a residency requirement for public safety personnel. The City does require that applicants to APD reside in the City in order to be hired, but APD does not have a residency requirement for officers and personnel to reside in the City of Albany after they are hired.	54.1 APD should review their personnel requirements to determine the feasibility of requiring that sworn officers reside in the City of Albany, including considerations related to the collective bargaining agreement.	Medium-term	Personnel, Policy
		54.2: APD should review its residency incentives and determine if they could be increased or improved.	Medium-term	Policy
55	The Community Policing Review Board and other	55.1 APD, along with the Mayor and the Common Council, should review past recommendations provided by CPRB and	Short-term	Research and analysis,

	community organizations have submitted formal reports and lists of recommendations to APD and the City of Albany in the past.	other groups and provide a formal response detailing anticipated action (or lack thereof) for each recommendation.		Community outreach
		55.2 APD, along with the Mayor and the Common Council, should institute policies that all recommendations provided in good faith from community organizations should receive a formal response, including an explanation of what actions will be taken in response to recommendations; if not all recommendations are to be implemented, an explanation should be provided.	Short-term	Policy, Community outreach
56	APD provides new supervisors with both classroom and field training within one year of promotion.	56.1 APD should continue to offer newly promoted supervisors classroom and field training and should regularly revisit the topics covered in the classroom training to ensure they reflect current departmental needs.	Not applicable	
		56.2 Revise General Order 1.1.15 Planning and Research in section IV.D to state that succession planning shall occur through formal training between supervisors, in-service trainings, and meetings rather than through informal training.	Medium-term	Policy, Personnel, Training
		56.3 Revise General Order 4.1.05 Training: Organization and Functions in section III to ensure that new sergeants receive training on effective completion of performance evaluations.	Medium-term	Policy, Personnel, Training
57	Current training does not emphasize police racial relations and understanding.	57.1 APD should prioritize the following topics for upcoming in-service training: implicit and racial bias, cultural sensitivity, and concepts of constitutional policing. APD should involve minority communities in the development of training curriculum.	Long-term	Training
		57.2 APD should develop in-person scenario-based training for use of force and de-escalation.	Long-term	Training
		57.3 APD should enforce the policy in General Order 3.1.35 Emotionally Disturbed Persons to ensure that refresher mental health training is occurring on an annual basis and instate auditing mechanisms to ensure future compliance.	Medium-term	Training, Policy
		57.4 Revise General Order 4.1.05 Training: Organization and Functions section IV to state that all employees of the APD, including non-sworn personnel, should receive at least the following instruction:	Medium-term	Policy

		<ul style="list-style-type: none"> • Racial bias in policing • Cultural sensitivity 		
58	APD maintains an active Crisis Intervention Team program.	<p>58.1 APD should maintain language in General Order 3.1.25 Missing Persons emphasizing that CIT trained officers and incidents involving CIT deployment may require additional time completing the call for service, including time spent referring individuals to services.</p> <p>58.2 APD should conduct an annual analysis of CIT resources and needs, based on calls for service, CIT personnel deployments, shift coverage, and other relevant factors. APD should use the results of this analysis to establish the need to recruit and train additional CIT officers, in order to ensure there is full-time CIT coverage at sufficient levels to respond to all necessary calls.</p>	Not applicable	
59	APD relies on an online platform (PowerDMS) for most trainings.	<p>59.1 APD should hold in-person training every two years for the following training topics:</p> <ul style="list-style-type: none"> • Procedural Justice • Implicit Bias • Cultural Diversity 	Long-term	Training
60	APD's Academy training does not appear to include training on community-oriented policing or collaborative community problem-solving, and it includes only a short unit on procedural justice, though it does include a strong focus on bias and diversity.	<p>60.1 APD should review the allocation of topics and time in the Academy training to ensure that all officers are trained in community-oriented policing practices and strategies for collaborative community problem-solving including the SARA model, and that they emphasize procedural justice in all aspects of their work.</p> <p>60.2 APD should maintain or increase the time spent on the topics of cultural diversity, implicit bias, and history of racism.</p>	Long-term	Training
61	An independent, objective, and ongoing assessment of APD's progress towards the recommendations in this report will be crucial to the	61.1 The City of Albany and APD should engage an independent audit firm to track and monitor progress towards implementing the recommendations in this report.	Short-term	Funding

	implementation and sustainment of the proposed changes.			
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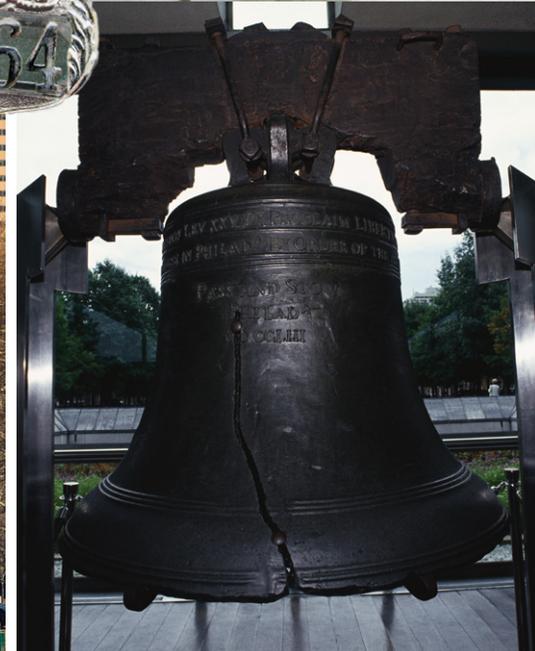


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COLLABORATIVE REFORM INITIATIVE

Interim Final Report of the Philadelphia Police Department

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COPS
Community Oriented Policing Services
U.S. Department of Justice

CNA
ANALYSIS & SOLUTIONS

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Background

In June 2013, Commissioner Charles H. Ramsey of the Philadelphia Police Department (PPD) requested technical assistance from the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS Office) through the Collaborative Reform Initiative for Technical Assistance (CRI-TA). While Philadelphia was experiencing reductions in violent crime and assaults against the police, the city was also experiencing increases in fatal officer-involved shootings. Following Commissioner Ramsey's retirement in January 2016, then-First Deputy Commissioner Richard Ross was appointed commissioner of the PPD. Under his tenure, the PPD continued the collaborative reform process as originally planned.

CRI-TA provides law enforcement agencies in the United States with an option to closely assess emerging issues of concern that, if left unchecked, might develop into serious problems requiring extensive and expensive reform efforts. Through CRI-TA, independent organizations conduct assessments of the identified problems in a police agency and recommend reforms aimed at eliminating or substantially reducing the problems; they then monitor the police agency's implementation of those reforms for 12 to 18 months, helping to insure that the reforms have a lasting effect. Of the 16 law enforcement agencies that have participated in CRI-TA, the PPD is the largest law enforcement agency to participate to date. The PPD is the nation's fourth largest police department, with more than 6,600 sworn members and 800 civilian personnel.¹ The PPD is the primary law enforcement agency responsible for serving Philadelphia County, extending over 140 square-miles in which approximately 1.5 million people reside.²

The goals of CRI-TA at the PPD included examining and reforming deadly force training, policies, and practices in the PPD and improving community involvement in these matters. The objectives of this assessment included the following:

- Enhance training as it relates to officer and public safety in deadly force situations.
- Improve the quality and transparency of deadly force investigations from both criminal and administrative standpoints.
- Strengthen the use of force review process.
- Institutionalize organizational learning processes and practices related to deadly force incidents.

At the request of the COPS Office, CNA³ conducted a thorough assessment of trends and patterns in use of force and deadly use of force at the PPD as well as of training, policies, and practices pertaining to use of force and deadly force.

1. "Home – About Us," Philadelphia Police Department, accessed Jan 8, 2017, <http://www.phillypolice.com/>.

2. Ibid.

3. CNA is a research and analysis firm specializing in policing reform issues around use of force and police-community relations. CNA worked with the COPS Office to develop the Collaborative Reform Initiative and worked on CRI-TA projects in Las Vegas, Nevada; Spokane, Washington; and Fayetteville, North Carolina, in addition to the Philadelphia project.

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The COPS Office published the initial assessment report, *Collaborative Reform Initiative: An Assessment of Deadly Force in the Philadelphia Police Department*, in March 2015.⁴ That report presented a detailed analysis of use of force incidents in the PPD from 2007 to 2013. The analysis revealed that during those years, the PPD averaged about 50 officer-involved shootings (OIS) per year and that the number of OISs had declined in recent years. However, the percentage of OISs that involved PPD officers shooting at unarmed individuals increased over that same time period, from approximately 8 percent to more than 20 percent.⁵

While the release of the assessment report in March marked the completion of the assessment phase, the COPS Office, CNA, and the PPD continued their collaboration to support the implementation of the 91 recommended reforms included in that report. Tracking the implementation progress of these reforms began in April 2015 and continued through December 2016, a period of 20 months.

The COPS Office published the initial progress report, *Collaborative Reform Initiative: Six-Month Assessment Report on the Philadelphia Police Department*, in December 2015.⁶ The six-month assessment is the first of two reports that CNA published on the PPD's progress toward implementation of the recommended reforms. It informed all stakeholders (i.e., the PPD, the DOJ, and the Philadelphia community) of the PPD's progress as of that date.

During 2016, CNA conducted additional site visits and interviews with PPD personnel and community members; directly observed PPD activities; analyzed related data; and continued to review supporting documentation provided by the PPD regarding activities related to the reform recommendations. This final progress report documents the status of the implementation of the recommended reforms at the completion of the monitoring phase. We group the reforms into six categories and provide a summary of the PPD's progress in each category: policies, recruit training, in-service training, investigations, deadly force review and officer accountability, and external oversight and transparency. Following these sections, we provide conclusions and recommendations regarding the PPD's path forward.

4. George Fachner and Steven Carter, *An Assessment of Deadly Force in the Philadelphia Police Department*, Collaborative Reform Initiative (Washington, DC: Office of Community Oriented Policing Services, 2015), <http://ric-zai-inc.com/Publications/cops-w0753-pub.pdf>.

5. *Ibid.*, 17–33.

6. Coldren, James, Steven Carter, James LaRochelle, and Ashley Shultz, *Six-Month Assessment Report on the Philadelphia Police Department*, Collaborative Reform Initiative (Washington, DC: Office of Community Oriented Policing Services, 2015), <https://ric-zai-inc.com/Publications/cops-w0792-pub.pdf>.

Progress toward Report Recommendations

The Philadelphia Police Department (PPD) has made significant progress toward the implementation of the 91 Collaborative Reform recommendations included in the assessment report regarding the PPD's use of force and officer-involved shootings. The assessment team has determined that 91 percent of the recommended reforms are either **complete, partially complete, or in progress** as of the delivery of this report. Two-thirds of the 91 recommendations—or 61 recommendations—have been successfully completed, including the following:

- 17 of 20 use of force recommendations
- Seven of 16 basic recruit training recommendations
- 10 of 14 in-service training recommendations
- 15 out of 18 investigations recommendations
- Five out of 12 use of deadly force review and officer accountability recommendations
- Seven out of 11 *External Oversight and Transparency* recommendations

Another four recommendations are partially complete, while 18 are in progress, representing 20 percent of the recommendations.

Of the eight recommended reforms where there has been no progress by the PPD during the monitoring period, three are under review and will likely be moved to complete, partially complete, or in progress before the final report is published. Two depend on future negotiations with the PPD's collective bargaining unit, which will not take place until July 1, 2017. Two pertain to recommended improvements to the PPD website to promote greater transparency of information in accordance with national best practices, and these require further research, discussion, and time to implement. One recommended reform could not be completed as outlined in the initial assessment report; however, the PPD took other actions to meet the spirit of the recommendation, which will be further detailed within the final report. Thus, the PPD has completed most of the recommended reforms at the conclusion of the Collaborative Reform Initiative for Technical Assistance in Philadelphia.

While some of the Philadelphia Collaborative Reform Initiative recommendations have not yet been completed, it is our belief that the PPD is committed to continuing their progress toward implementing the recommendations, although it will require additional time and effort. They have also expressed a commitment to working with the Philadelphia community in their efforts to continue progress on the reforms.

This interim final progress report assigns one of four statuses to each of the 91 recommendations contained in the assessment report: complete, partially complete, in progress, or no progress (see table 1).

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Table 1. Definitions of recommendation statuses

Status	Definition
 Complete	The recommendation has been sufficiently demonstrated to be complete based on the assessors' review of submitted materials, observations, and analysis. Ongoing review of this recommendation throughout the monitoring period might be necessary to determine whether this reform has been fully institutionalized within the department.
 Partially complete	The agency has submitted materials that they believe demonstrate completion of the recommendation. However, the assessors have deemed that additional effort is needed to complete the recommendation. The agency has stated that no further work will be forthcoming on the recommendation.
 In progress	Implementation of the recommendation is currently in progress based on the assessors' review of submitted materials, observations, and analysis.
 No progress	The agency has not sufficiently demonstrated progress toward implementation of the recommendation.

Table 2 shows the tally of the status of the 91 recommendations as of January 5, 2017. To date, the PPD has completed 61 recommendations, has made demonstrable progress on an additional 22 recommendations (those listed as partially complete and in progress), and has made no progress on eight recommendations. At the final phase of monitoring, 71 percent⁷ of the 91 reform recommendations are complete or partially complete with another 20 percent in progress. Thus, 91 percent of the 91 recommendations for the PPD are complete, partially complete, or in progress.

Table 2. Status of PPD assessment report recommendations

Status	Reforms / Recommendations (N)	Percent (%)
 Complete	61	67
 Partially complete	4	4
 In progress	18	20
 No progress	8	9
Total	91	100

Use of force policies

This topic includes 20 recommendations based on an analysis of PPD directives 10 and 22, which are the department's use of force policies. Several other directives and policies influence officer decision making, public encounters, and critical incidents, such as directive 111 on crisis response and critical incident negotiations; directive 136 on severely mentally disabled persons; and directive 146 on foot pursuits.

7. The CNA monitoring team is currently reviewing documents that will likely move eight recommendations to Complete for an anticipated total of 76 percent of the reform recommendations.

Table 3 summarizes the status of the 20 recommendations regarding use of force policies and is followed by commentary on the status of each individual recommendation. Of the 20 recommendations, 17 are complete (85 percent), 2 are in progress (10 percent), and one has had no progress made.

Table 3. Status of use of force policies recommendations

Status	Reforms / Recommendations (N)	Percent (%)
✓ Complete	17	85
p✓ Partially complete	0	0
▲ In progress	2	10
✗ No progress	1	5
Total	20	100

The PPD made notable progress in enhancing its use of force policies by substantially revising directives 10 and 22, as well as developing an accompanying standard 1.5-hour in-service training module and video from the commissioner. The directives now

- include additional narrative context describing the appropriate level of force to be applied under various circumstances;
- expound upon the principles of *Graham v. Connor* to guide officers in deadly force decision making;
- account for and require any officers witnessing the inappropriate initiation of force to report.

The revised directives also substantially changed the department's policies regarding the use of electronic control weapons (ECW). The PPD now

- clearly illustrates where using ECWs are appropriate and inappropriate in a use of force decision chart;
- requires officers who accidentally discharge an ECW and strike a suspect or non-suspect to complete a use of force report;
- requires officers to carry ECWs on their duty belt at all times while on duty.

Given that law enforcement agencies have increasingly become first responders to people experiencing mental health crises, it is noteworthy that the PPD continues to dispatch Crisis Intervention Team (CIT)-trained officers to calls for service involving persons in a probable state of mental crisis. In addition, the PPD now records and tracks incidents when a CIT officer is requested or needed to respond to an incident by creating and implementing four new calls in the computer-aided dispatch (CAD) system.

While the PPD made progress in implementing these reforms, more work remains to ensure officers' acknowledgment of receipt of training bulletins and policy updates. Recommendation 2.3 addresses the need for the PPD to incorporate officers' acknowledgment into the PPD's training record-keeping system. This recommendation remains in progress, as the department has acquired a system that will incorporate these receipts into its training record-keeping system and is currently incorporating information specific to the department. Then, the system will be rolled out to commanders for review and training in early 2017.

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However, there are some remaining software issues and resource constraints in that the department only has a little over 100 licenses that they should continue to address and seek to eventually overcome to ensure all officers within the PPD are able to acknowledge receipt of training bulletins and policy updates.

Basic recruit training

This topic included 16 recommendations, which were based on a comprehensive assessment of the PPD's recruit academy training as it relates to deadly force. These recommendations included defensive tactics, de-escalation, use of force, and firearms.

Table 4 summarizes the status of the 16 recommendations regarding basic recruit training and is followed by commentary on the status of each individual recommendation. Of the 16 recommendations, seven are complete (44 percent), and nine are in progress (56 percent).

Table 4. Status of basic recruit training recommendations

Status	Reforms / Recommendations (N)	Percent (%)
 Complete	7	44
 Partially complete	0	0
 In progress	9	56
 No progress	0	0
Total	16	100

The PPD made progress in enhancing basic recruit training. The department created formal, ongoing collaboration between the Field Training Unit (FTU) and the training academy. The FTU and Recruit Training Unit (RTU) commanders and staff now participate in monthly meetings to coordinate training. This collaboration allowed the PPD to make significant improvements to its academy. In working with the FTU, the academy was able to complete recommendation 11.2 by adding a full day of shooting near the end of the academy to reacquaint the recruits with the mechanics of shooting, because skills that require continual training and refinement, such as firearms, should be staggered throughout the length of the academy, according to national best practices.

The PPD made additional improvements to its basic recruit training by establishing a minimum continuing education requirement for all training staff to remain certified by the PPD. All instructors are now required to attend the Municipal Police Officers' Education & Training Commission (MPOETC) annual instructor training and obtain certification annually. The MPOETC sets certification and training standards for police officers employed by municipalities in the Commonwealth of Pennsylvania. The academy reviews the instructor list to ensure all instructors are in the rotation to meet the annual requirement.

In addition, the PPD significantly revamped its reality-based training (RBT) program for both basic recruit and in-service, which is now housed in a separate facility at the academy. The department developed a catalog of scenarios based on real-world incidents experienced by PPD officers and other officers across

the country, which the department uses for RBT. The PPD also increased the amount of RBT offered to academy recruits and added an additional day of RBT to its annual in-service training requirements.

Two recommendations (17.1 and 17.2) address the need for the PPD to expand community-oriented policing concepts and activities. While the PPD's academy significantly increased the scope and duration of its training on core and advanced community-oriented policing concepts, thereby completing recommendation 17.1, more work remains to increase community policing activities in Philadelphia in order to complete recommendation 17.2; therefore, it remains in progress. In 2012, the PPD used the Community Policing Self-Assessment Tool (CP-SAT) to assess the department's community policing activities. ICF International compiled and analyzed the results. The PPD completed the initial CP-SAT in 2012 and completed a follow-up assessment in 2016. Overall, the PPD showed little improvement in self-reported community policing activities between 2012 and 2016. They consistently ranked themselves near a 3.0 (on a scale from 1, indicating low community policing implementation, to 5, indicating high implementation; thus a modest score) for all three categories: community partnerships, problem solving, and organizational transformation. Most categories and questions reported a very slight increase in usage of community policing principles (+0.10 - +0.30). The PPD's 2016 scores were level with similar agencies but slightly below the average of all agencies that have completed the CP-SAT.

In-service training

This topic included 14 recommendations, which were based on a comprehensive assessment of the PPD's in-service training program. These recommendations included the structure of PPD in-service training, officer requirements, and various types of in-service training available to PPD officers.

Table 5 summarizes the status of the 14 recommendations regarding in-service training and is followed by commentary on the status of each individual recommendation. Of the 14 recommendations, 10 are complete (71 percent), three are in progress (21 percent), and one is partially complete (7 percent).

Table 5. Status of in-service training recommendations

Status	Reforms / Recommendations (N)	Percent (%)
 Complete	10	71
 Partially complete	1	7
 In progress	3	21
 No progress	0	0
Total	14	100

The PPD made progress in expanding in-service training. The department made a substantial organizational investment in developing an 11-week field development program (FDP) and a new field training protocol (FTP). The PPD's FTP exceeds state standards and, even in its current status, surpasses those of other eastern urban police departments. However, it does not meet the standards of several FTP

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programs recognized as exemplary, such as San Jose, California, and Reno, Nevada. The assessment team provided detailed technical assistance to the PPD on the widely used San Jose field training officer model, which is a 12- to 16-week program. In addition, the team provided information on the Reno police training officer (PTO) model. While recommendation 22 is complete, the PPD should look to these exemplary models to continue making improvements in in-service training.

In addition, the department increased its offerings of mandatory in-service training, which now include trainings in procedural justice and unconscious bias and law enforcement, as well as recertification training programs for ECWs and CIT officers.

One recommendation (24) concerned the PPD training staff, noting that they lacked opportunities for exposure to day-to-day officer experiences. If training staff are too far removed from working in the field, they are not able to effectively communicate course lessons in a context that resonates with field officers' day-to-day experiences. The PPD now requires training staff members to work a shift in a patrol district in a two-officer car at least twice annually. The periods range from two days to two weeks.

Recommendation 28.1, which suggests the PPD reinstitute the rotating simulation use of force training program, remains partially complete because the PPD has neither money for firearms training simulator (FATS) machines nor the requisite safety protocols in place at remote locations.

To enable the department to analyze and proactively address any department-wide or officer-specific tactical deficiencies, officer performance in training should be recorded to track officer progress department-wide and flag any tactical issues that may require additional targeted training. While the department found a document management program useful for tracking policy updates and training materials, it is lacking in other critical areas needed by the PPD, including that it is not designed to track an officer's training progress and deficiencies throughout their career. Therefore, this recommendation (25.2) remains in progress. The PPD should explore other automated options to implement or the possibility of creating this tracking tool in-house.

Investigations

This topic includes 18 recommendations for improving investigations of police shootings and police use of force (UOF) in the PPD. The assessment team derived these recommendations from three sources of information: (1) review of the manuals and policies pertaining to use of force and deadly force investigations at the PPD, (2) review of information obtained through interviews with members of the shoot team in the Internal Affairs Division (IAD) that conducts administrative use of force investigations, and (3) systematic assessment of the quality of the PPD's UOF investigation files. The systematic review concluded that the PPD's UOF investigations were rated "fair," attaining a 3.2 score on a rating scale from 1 to 5, based on the independent assessment of four experienced officer-involved shooting (OIS) investigators.

Table 6 below summarizes the status of the 18 recommendations regarding UOF investigations. Of the 18 recommendations, 15 are complete (83 percent), two are in progress (17 percent), and one has had no

progress made (6 percent). Following is a review of the PPD’s progress on the recommendations pertaining to investigations.

Table 6. Status of investigations recommendations

Status	Reforms / Recommendations (N)	Percent (%)
 Complete	15	83
 Partially complete	0	0
 In progress	2	11
 No progress	1	6
Total	18	100

The PPD made significant progress in the investigations area since the publication of the first progress report in December 2015. Perhaps most importantly, the PPD established a new unit for the criminal investigation of all deadly force incidents (recommendation 31.1). Initially, the PPD sought to identify an external investigating body for these incidents; however, that was not feasible, primarily because no organization other than the PPD had the resources and capacity to carry out thorough criminal investigations of PPD deadly force incidents. Thus, the department opted to create a new internal unit with this responsibility, called the Officer Involved Shooting Incident (OISI) Unit. This unit is under the direction of a captain and comprises three sergeants and eight detectives.

The PPD completed several important corollary recommendations following the establishment of the OISI Unit, including the drafting of the OISI Unit operations manual, which contains a number of directives that satisfy several of the recommendations in this area and which details the training required for unit investigators. The OISI Unit operations manual contains specific information regarding the public safety statement provided by officers involved in shooting incidents and the process of walking through the shooting scene as well as establishing control of the scene by the OISI, video recording of the scene, conducting interviews of involved officers within 72 hours of the incident, closing investigations within 30 days, and provides other critical guidance. CNA’s review of the operations manual and other documentation provided by the PPD resulted in the designation of most of the recommendations regarding OIS investigations as completed.

In addition, the CNA monitoring team conducted a review of 10 OIS investigation case files, for cases investigated after the publication of the original PPD assessment report in March 2015, to assess whether improvement had been made in the quality of OIS investigations. Our review found evidence of improvement in OIS investigations. For example, the files contained evidence that the PPD does video tape the OIS scenes, that the investigations are closed within 30 days, and that involved officers are interviewed within 72 hours of the incident. However, we did not find improvements in all aspects of OIS investigations; some aspects of OIS investigation documentation would still benefit from improvements, such as the development of an OIS scene photography protocol, audio and video taping of all critical

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witnesses and suspects in OIS incidents, and video recording of all interviews of discharging officers in OIS incidents. This latter recommendation was opposed by the officers' collective bargaining unit.

Use of deadly force review and officer accountability

This topic included 12 recommendations regarding the review of OISs and UOF incidents and procedures for holding PPD officers accountable for policy non-compliance. The assessment team derived these recommendations from four sources of information: (1) review of the manuals and policies pertaining to use of force and deadly force within the PPD Office of Professional Responsibility (OPR), (2) interviews with members of the PPD Use of Force Review Board (UFRB), (3) observation of UFRB meetings covering 20 UOF cases, and (4) an analysis of outcomes and disciplinary data from UFRB files.

Table 7 summarizes the status of the 12 recommendations regarding UOF review and officer accountability and is followed by commentary on the status of each individual recommendation. Of the 12 recommendations, five are complete (42 percent), three are in progress (25 percent), two are partially complete (17 percent), and two have had no progress (17 percent).

Table 7. Status of UOF review and officer accountability recommendations

Status	Reforms / Recommendations (N)	Percent (%)
✓ Complete	5	42
P ✓ Partially complete	2	17
▲ In progress	3	25
✗ No progress	2	17
Total	12	100

The PPD has made progress in several areas regarding the UOF review process and officer accountability; however, since the publication of the original PPD assessment report in March 2015, its work on several key recommendations pertaining to the PPD UFRB and officer accountability remained either in progress or not started at the conclusion of the monitoring period in December 2016. It is important to note that the recommendations in this area touch on key areas regarding the functions of the UFRB and officer discipline that have implications for the collective bargaining agreement and negotiations. Thus, the PPD executive management staff could not address several recommendations during this report period. The next labor contract negotiation is scheduled for July 2017, and it is not certain that Collaborative Reform recommendations in this section will be addressed during those negotiations.

One key recommendation (40.1) concerned the merging of the UFRB and the Police Board of Inquiry (PBI), and another concerned the work of this newly merged board regarding incident review. Because the merger did not occur, recommendation 40.1 had no progress, and recommendation 40.2, regarding incident review, remains in progress, because the UFRB conducts incident reviews, though not in conjunction with the PBI.

The UFRB implemented several recommendations regarding its composition by including civilian representation (a representative from the Police Advisory Board) and command staff representation. However, the UFRB still does not include peer officers, resulting in a status of partially complete.

Recommendation 41, which addresses the articulation of disciplinary actions for firearms policy violations, remains partially complete, again because of the pending labor contract negotiations.

Two recommendations, 44.1 and 44.2, address the need for the PPD to internally institutionalize the work and responsibilities conducted in the pursuit of agency reform under this Collaborative Reform Initiative (e.g., keeping abreast of national standards and developments regarding UOFs and OISs, progress monitoring, policy review, and linking officer actions and mistakes to training and policy development). Both recommendations remain in progress, as PPD leadership has indicated its intention to establish a new internal unit with these responsibilities, though the unit has not been formally established (see the chapter on conclusions for additional information on this topic).

External oversight and transparency

This topic includes 11 recommendations regarding the PPD's relationship with the citizen oversight function and its progress toward transparency regarding how the agency responds to police UOF. These recommendations were derived from three sources of information: (1) a review of the manuals and policies pertaining to public release of information on UOF and OISs, (2) interviews with PPD command staff and staff from the PPD Office of Communications, and (3) interviews with community members.

Table 8 summarizes the status of the 11 recommendations regarding external oversight and transparency and is followed by commentary on the status of each individual recommendation. Of the 11 recommendations, seven are complete (64 percent), one is in progress (9 percent), and three have had no progress made (27 percent).

Table 8. Status of external oversight and transparency recommendations

Status	Reforms / Recommendations (N)	Percent (%)
✓ Complete	7	64
p ✓ Partially complete	0	0
▲ In progress	1	9
✗ No progress	3	27
Total	11	100

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The PPD made notable progress regarding the implementation of Collaborative Reform recommendations pertaining to external oversight of the department, primarily through its improved relationship with the Police Advisory Commission (PAC) and its implementation of body-worn cameras. However, the PPD made little progress regarding the amount of detailed information it provides on its website pertaining to police shootings, use of force, and police officer accountability.

Evidence of the improved relationship between the PPD and the Police Advisory Board is found in the fact that the PPD provides detailed information regarding all OISs to the PAC (recommendations 46 and 47.2). Interviews with the PAC executive director affirm this conclusion.

Progress toward transparency and efforts to improve community trust in the PPD is evidenced by the PPD's steady progress toward the implementation of body-worn cameras (BWC) (recommendations 48.1, 48.2 and 48.3). Since the publication of the PPD assessment report in March 2015, the PPD has successfully implemented a BWC pilot program, has worked with research partners from Temple University to comprehensively assess the pilot program, and continues with plans to implement BWCs more broadly within the police department.

We observed less progress regarding modifications to the PPD website that would allow the posting of more, and more detailed, information regarding OISs and investigation details, and the PPD has still not published an annual report regarding trends and information regarding OISs department-wide. The PPD indicates that this report is under development; thus, this recommendation (45.4) is considered in progress.

Next Steps

In the interest of continued progress at the PPD, and in recognition of the department's ongoing pursuit of improvements regarding police-community relationships and the development of stronger trust with the community it serves, we offer several recommendations for the PPD's consideration. These recommendations are not binding; they reflect our interest and the department's interest in continuing the progress achieved through the Collaborative Reform process.

First, and perhaps most important, the PPD should continue working toward the goals identified in recommendations 43 (continue to refine the OIS and UOF case review processes), 44.1 (establish a permanent office for organizational learning), and 44.2 (through this office, convene a bi-annual work group). Each of these recommendations addresses the importance of considering Collaborative Reform as an ongoing organizational development and improvement process—a process that should be refined, strengthened, and continually assessed according to emerging national standards and best practices regarding police use of force, police shootings, and police-community relations. The PPD commissioner stated his intention to take this course of action, and now that new policies, procedures, and practices have been integrated into the PPD through the Collaborative Reform process, it is a logical and opportune time to take specific actions to ensure that this progress continues. In addition, the mayor of Philadelphia will soon promulgate a revised executive order addressing the structure and responsibilities of the Police Advisory Commission (integrating the work of the Civilian Oversight Board into the PAC), instructing the PAC to similarly continue to advance progress in police reform, civilian oversight, and the accountability of the PPD to the community. We urge the PPD and the PAC to work together on this very important task and to continue developing mutually supportive goals and objectives.

Second, there is room for improvement in the PPD's approach to community policing; this work should continue in a more aggressive fashion than it did under Collaborative Reform. The results of the comparison of the PPD's self-reported community policing self-assessment surveys (conducted in 2012 and 2016) suggest that the PPD has not made enough progress in advancing community policing over the past several years. Community policing goes hand in hand with such important goals as officer safety, building community trust in the police, effectiveness of police operations, and enhancement of public safety. We urge the PPD to make stronger strides toward the implementation of community policing department-wide and citywide.

Finally, with its participation in the Collaborative Reform Initiative for Technical Assistance, the PPD has placed itself among the leading police agencies in the country regarding the monitoring, assessment, and improvement of all aspects of police use of force and police shootings. We applaud the PPD's leadership, personnel, and community in undertaking these efforts and encourage the PPD to institutionalize the policies, procedures, and practices it has adopted through Collaborative Reform over the past several years. In doing so, the PPD will remain at the forefront of contemporary policing in the United States.

About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded the hiring of approximately 129,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs.
- The COPS Office also sponsors conferences, roundtables, and other forums focused on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gang violence—can be downloaded at www.cops.usdoj.gov. This website is also the grant application portal, providing access to online application forms.

This summary report details how the Philadelphia Police Department (PPD) has made significant progress toward the implementation of the 91 Collaborative Reform recommendations included in the initial assessment report regarding the PPD's use of force and officer-involved shootings. The assessment team has determined that 91 percent of the recommended reforms are either complete, partially complete, or in progress as of the delivery of this report. This summary of the PPD's participation in the Collaborative Reform Initiative for Technical Assistance demonstrates that although some of the Philadelphia Collaborative Reform Initiative recommendations have not yet been completed, the PPD is committed to continuing their progress toward implementing the recommendations. As a result of these efforts, the PPD is among the leading police agencies in the country regarding their monitoring, assessment, and improvement of all aspects of police use of force.



COPS
Community Oriented Policing Services
U.S. Department of Justice

U.S. Department of Justice
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To obtain details on COPS Office programs, call
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NOVEMBER 7, 2019



FINAL REPORT

RACIAL BIAS AUDIT OF THE CHARLESTON,
SOUTH CAROLINA, POLICE DEPARTMENT

INTRODUCTION

In the mid-1800s, more than 40 percent of all slaves arriving in the US entered through Charleston, South Carolina.¹ The city's history and its role in the slave trade continue to influence the city and its community—most apparently in the 2015 massacre at Mother Emanuel Church. This tragedy served as an example to the nation of how a community can come together to work toward acknowledging and addressing racial tensions and ultimately achieve healing and forgiveness. The Charleston City Council further acknowledged this movement on June 19, 2018, when it issued a two-page resolution as an apology for its role in the slave trade and as a statement toward racial reconciliation.² To advance such efforts, in June 2019 the city created a Diversity, Racial Reconciliation and Tolerance manager position.

Today, Charleston's rich history provides context regarding the culture and perspectives of the local community and its relationship with the police. The community's efforts to address systemic racial bias in policing since the early mid-twentieth century provide historical context to the depth of the issues and challenges in developing and maintaining strong relationships between the local law enforcement in the Charleston area and the community. The Charleston Police Department (CPD), which employs 458 sworn police officers and 117 civilians and serves a population of more than 136,000, is increasingly becoming an active community partner in conversations and efforts to address the city's past and present challenges surrounding race.

Efforts to strengthen police-community relationships have been at the forefront of the city's priorities. The Illumination Project, established in late 2015, "created a unique, community-wide experience for both citizens and police with the purpose of further improving their relationship, grounded in trust and legitimacy."³ The Illumination Project identified many strategies to improve police-community relationships, including the establishment of the Citizen Police Advisory Council. Although these efforts were important steps in strengthening relationships between police and community stakeholders, continued concern about potential racial bias, also brought forth during a Charleston Area Justice Ministry (CAJM) Nehemiah Call to Action Assembly in 2016, led the City Council to vote in favor of an independent audit of the CPD in November of 2017. Further adding to this urgency were the findings from the College of Charleston's report, *The State of Racial Disparities in Charleston County, South Carolina 2000-2015*, which noted racial disparities and the linkage to structural racism and economic inequality.⁴ The call for an audit also stemmed from growing interest among city officials and the community to address concerns

¹ Campisi, J. and Ahmed, S. Charleston, where 40% of all US slaves entered the country, finally apologizes for its role in the slave trade. CNN. June 19, 2018. Last accessed on August 21, 2019, at <https://www.cnn.com/2018/06/19/us/charleston-apology-slavery-juneteenth-trnd/index.html>

² Ibid.

³ City of Charleston. Charleston Illumination Project: Community Engagement, Strategic Planning and Implementation Report. September 2016. <https://www.charleston-sc.gov/DocumentCenter/View/12061/Illumination-Project-Complete-Report?bidId=>

⁴ Patton, S. *The State of Racial Disparities in Charleston County, South Carolina 2000-2015*. The College of Charleston. 2017. <https://rsji.cofc.edu/wp-content/uploads/2017/01/The-State-of-Racial-Disparities-in-Charleston-County-SC-Rev.-11-14.pdf>

about racial bias in the CPD's procedures and practices. Subsequently, the City Council, city officials, and community stakeholders worked together to develop a request for proposals, review the proposals, and select an independent auditor.

In January 2019, the City of Charleston, through a competitive bid, selected the CNA Institute for Public Research (CNA) to conduct a racial bias audit of the CPD.

GOALS AND OBJECTIVES OF THE AUDIT

CNA's audit was designed to accomplish the following:

- Assess, monitor, and assist the CPD, in concert with the community, in uncovering any aspects of implicit bias or systemic and individual racial bias.
- Assess the effect of enforcement operations on historically marginalized and discriminated-against populations, particularly those in the African-American community.
- Provide recommendations for reforms that improve community-oriented policing practices, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and public trust, taking into account national best practices and community expectations.
- Engage the community to understand both the experiences and the expectations of interactions with CPD.

AREAS OF ASSESSMENT

The city, in partnership with local community stakeholders, identified five areas of assessment for the CPD audit. They included the following:

1. Traffic stops, including field contacts
2. Use of force, deadly and non-deadly
3. The complaint process, internal and external
4. Community-oriented policing practices
5. Recruitment, hiring, promotions, and personnel practices

METHODOLOGY AND APPROACH

The audit team based its approach to the racial bias audit on a number of guiding principles: (1) providing evidence-based assistance with an emphasis on research, including both academic research and documented lessons learned and best practices from the field; (2) using a multimethod assessment design, including interviews, community meetings, document review, and data analysis; and (3)

conducting a comprehensive review and applying best practices in police settings. CNA's approach encompassed four major components, described below.

Document review

The audit team reviewed CPD's general orders (GOs) and field guides related to the five areas of assessment identified above. These included General Order 1: Mission and Objectives, General Order 7: Community Relations, General Order 8: Fair and Impartial Policing, General Order 10: Professional Standards, General Order 20: Performance Evaluations, General Order 23: Response to Resistance and Aggression, General Order 25: Less-Lethal and Lethal Weapons, General Order 29: Constitutional Issues, General Order 49: Traffic Citations, Draft General Order 77: Body-Worn Cameras and In-Car Video Cameras, Field Guide: Body-Worn Cameras, Field Guide: BlueTeam, and Field Guide: Field Contact Card, among others. In addition to policies and procedures, we also reviewed the CPD Organizational Chart, Draft Recruitment and Hiring Plan, police officer job description, monthly STAT 360 reports, body-worn camera (BWC) retention schedule, CPD website, and a number of related training lesson plans.

Interviews

We also conducted semi-structured interviews with 75 CPD personnel and 12 government officials and community leaders. Interviews with community leaders were semi-structured and included representatives from the CAJM, Illumination Project, the American Civil Liberties Union, the National Association for the Advancement of Colored People, the Citizen Police Advisory Council, and the Criminal Justice Coordinating Council. These interviews focused on gaining a better understanding of the police-community relationship.

Our interviews with CPD personnel included command staff, supervisors, and line officers. We selected line officers at random for interviews; the sample was stratified for officer race, age, gender, tenure, assignment, and rank. The interviews provided a source of qualitative data in our assessment of community-oriented policing practices. The audit team also attended three master roll call sessions at the beginning of the audit to introduce the audit and answer questions or concerns from department members. The audit team also met with representatives from the Palmetto State Law Enforcement Officers Association.

The audit team also conducted two meetings with CPD personnel, one with CPD staff and another with CPD personnel, to deliver the preliminary findings and recommendations. The purpose of these meetings was to gather input and feedback on the preliminary findings and recommendations.

Community meetings

During the assessment, the audit team hosted six community meetings at locations throughout the city, one was specifically geared toward local youth. More than 290 diverse community members from the Charleston area attended these meetings. The meetings gave community members the opportunity

to provide their input, perspectives, concerns, and suggestions regarding the audit directly to the CNA audit team. Each section of this report documents specific perspectives and input from these community meetings.

In addition to the input from community meetings, the audit team received feedback from eight community members via email.

The audit team also conducted three community meetings and held one meeting with the City Council to deliver the preliminary findings and recommendations. The purpose of these meetings was to gather input and feedback on our preliminary analysis.

Data analysis

Our data analysis focused on four areas—traffic stops (including field contacts), use of force, the complaint process, and recruitment and hiring. We analyzed data for 2014 to 2018, when possible for each of these areas. Due to a lack of data related to recruitment and hiring, we were unable to conduct any detailed analysis. We used a combination of analytical approaches depending on the available data and the aim of the analysis. However, because of several data limitations detailed in Appendix B: Traffic stops and field contacts, Appendix C: Use of force, and Appendix D: Complaints, we were only able to conduct a comprehensive analysis of racial disparity in traffic stops (not including field contacts) and use of force. The findings from our analyses provided context for our review of policies and practices and, in many instances, affirmed the perspectives gathered from our interviews with officers and community members. An overview of the data analysis conducted for each of the three remaining areas is noted below. The detailed methodology is provided in Appendices B, C, and D.

Traffic stops and field contacts

The audit team reviewed traffic stop data, broken out into those traffic stops that result in warnings and those that result in citations, from 2014 through 2018, extracted separately from the RMS through January 25, 2018, and from South Carolina Collision and Ticket Tracking System (SCCATTS) from January 26, 2018, onwards. Because no single data system collects all traffic stop data, we analyze the two types of stops separately. We also conduct two comparative analyses aimed at understanding evidence of racial disparities in traffic stop activities. First, we consider stop rates for both the warning and citation traffic stops using traffic accidents as an external benchmark. We use a chi-square test of homogeneity to assess whether the population of drivers involved in accidents reported to law enforcement has a similar racial breakdown to the population involved in traffic stops.

Next, we review rates of searches that occur during traffic stops that end in warnings. We cannot analyze traffic stops ending in citations in terms of searches, as search data is not present in that database for all years in the given time period. We conduct propensity score matching to match traffic stops that are otherwise similar in terms of reason for the stop (moving or non-moving violation), driver age, driver race, and vehicle license plate state (in-state or out-of-state), but vary in the minority status of the driver, and compare the likelihood of searches taking place during these stops. We use a standard propensity

score matching approach using nearest neighbor matching, as well as three alternative specifications for sensitivity analysis. The audit team also reviewed field contacts extracted from CPD's RMS. We specifically considered field contact interactions with eight reason codes: citizen complaints, suspicious person, possible narcotic activity, possible suspect/matched description, loitering, PPP stop/search, observation only, and other. Our analysis of field contacts is purely descriptive; we do not include comparative analysis for these contacts.

Use of force

The audit team conducted both descriptive and comparative analysis of CPD's use of force incidents, interactions, and instances. CPD tracks use of force incidents in IAPro's BlueTeam software. Officers enter details about a use of force incident, including an incident narrative and basic information about the incident such as date, time, type of force used, and reason for use of force. We describe CPD's use of force over time, summarize characteristics of use of force incidents, describe types of force used, and summarize characteristics of officers and community members involved in use of force incidents. In conducting comparative analysis, we focus on disparities in use of force by the race of the community member involved in the incident. To assess whether racial disparity exists, we implement a propensity score matching approach. Propensity score matching is a quasi-experimental technique that compares the level of force used in incidents that are similar in ways other than the race of the involved community member. We use time of day (day or night), number of involved officers, reason for use of force, and circumstance prior to use of force to identify similar incidents and then compare at the level of the interaction (highest level of force used).

Complaints

The audit team reviewed employee and citizen complaints documented by CPD between 2014 and 2018. We exclude one complaint categorized as anonymous, since it cannot be attributed either to a community member or an employee. To capture all complaints and related actions, we include incidents CPD categorizes as "information calls," "investigations," "inquiries," and "supervisor complaint intake."

We primarily analyze complaint data descriptively, to include analysis of trends over time, allegations, complaint disposition and associated actions, and length of investigation. We also provide an overview of the characteristics of complainants for external complaints.

ORGANIZATION OF THIS REPORT

This report contains five sections. The first section delves into CPD's policies and practices as they relate to traffic stops and field contacts, the second section includes a review of use of force incidents and policies, the third section examines internal and external complaints, the fourth section reviews CPD's community-oriented policing practices, and the fifth section examines CPD's recruitment, hiring, and personnel practices. Within each section, we provide an overview of departmental policies and practices related to that area of assessment, a summary of the themes gathered from our interviews and community meetings, and the resulting findings and recommendations.

Also included as appendices in this report are the detailed descriptions of our analysis of traffic stops, field contacts, use of force, and complaints (Appendices B, C, D); a summary of the reforms and changes that CPD has put into place in response to the preliminary observations we made during our audit (Appendix E); and copies of the Summary Memos delivered after each site visit (Appendix F).

SUMMARY OF OUR FINDINGS AND RECOMMENDATIONS

Many of the findings and recommendations noted in this report are not unique to the CPD and include challenges that many police agencies across the country address. Policing has reached a pivotal point, and the role of the community in ensuring public safety is becoming more apparent and vital. CPD has made significant progress over the last several years; its continued investment in recruitment, training, and technology are just a few examples. However, CPD still needs to address a number of areas to ensure greater accountability and further improve its relationship with the community. Racial disparity in traffic stops,⁵ poor data-collection practices, lack of clarity in policies on use of force and professional standards, gaps in efforts to engage various segments of the community substantively, and lack of accountability mechanisms are a few examples of the findings and recommendations noted in this report. The audit team is reassured both by CPD's commitment to change and willingness to address these findings and implement the recommendations, and by the community's support of the CPD. Although CPD has begun addressing a number of these findings and recommendations, continued effort and engagement with both officers and the community will be critical to ensuring the successful implementation and sustainability of these improvements. Appendix A includes a complete list of findings and recommendations.

⁵ It is important to note that the comparative analyses conducted for this audit cannot uncover causal relationships or direct, conclusive evidence of racial bias; it finds evidence of disparity but does not identify the underlying causes of bias.

**ATTACHMENT C:
BURLINGTON STANDARD CONTRACT CONDITIONS
FOR CONSULTANTS**

1. **REGISTRATION:** The Consultant agrees to be registered with the Vermont Secretary of State's office as a business entity doing business in the State of Vermont at all times this Contract is effective. This registration must be complete prior to Contract execution.

2. **INSURANCE:** Prior to beginning any work, the Consultant shall obtain the following insurance coverage from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). The certificate of insurance coverage shall be documented on forms acceptable to the City. Compliance with minimum limits and coverage, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the City, must be received prior to the Effective Date of the Contract. The insurance policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) days prior notice to the City. If this Contract extends to more than one year, evidence of continuing coverage must be submitted to the City on an annual basis. Copies of any insurance policies may be required. Each policy (with the exception of professional liability and worker's compensation) shall name the City as an additional insured for the possible liabilities resulting from the Consultant's actions or omissions. The liability insurance furnished by the Consultant is primary and non-contributory for all the additional insured.

The Consultant is responsible to verify and confirm in writing to the City that: (i) all sub-consultants must comply with the same insurance requirements as the Consultant; (ii) all coverage shall include adequate protection for activities involving hazardous materials; and (iii) all work activities related to the Contract shall meet minimum coverage and limits.

No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Consultant for the Consultant's operations. These are solely minimums that have been developed and must be met to protect the interests of the City.

A. General Liability And Property Damage: With respect to all operations performed by the Consultant, sub-consultants, agents or workers, it is the Consultant's responsibility to ensure that general liability insurance coverage, on an occurrence form, provides all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors'/Consultants' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses

Coverage limits shall not be less than:

1.	General Aggregate	\$2,000,000
2.	Products-Completed/Operations	\$2,000,000
3.	Personal & Advertising Injury	\$1,000,000
4.	Each Occurrence	\$1,000,000
5.	Damage to Rented Premises	\$ 250,000
6.	Med. Expense (Any one person)	\$ 5,000

B. Workers' Compensation: With respect to all operations performed, the Consultant shall carry workers' compensation insurance in accordance with the laws of the State of Vermont and ensure that all sub-consultants carry the same workers' compensation insurance for all work performed by them under this Contract. Minimum limits for Employer's Liability:

1. Bodily Injury by Accident: \$500,000 each accident
2. Bodily Injury by Disease: \$500,000 policy limit,
\$500,000 each employee

C. Professional Liability Insurance:

1. General: The Consultant shall carry appropriate professional liability insurance covering errors and omissions made during their performance of contractual duties with the following minimum limits:

(a) \$3,000,000 - Annual Aggregate

(b) \$2,000,000 - Per Occurrence

2. Deductibles: The Consultant is responsible for any and all deductibles.
3. Coverage: Prior to performing any work, the Consultant shall provide evidence of professional liability insurance coverage defined under this section. In addition, the Consultant shall maintain continuous professional liability coverage for the period of the Contract and for a period of five years following substantial completion of construction.

D. Automobile Liability: The Consultant shall carry commercial automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the Contract. Each policy shall provide coverage with a limit not less than: \$1,000,000 Combined Single Limit for each occurrence.

E. Valuable Papers And Records Insurance: The Consultant shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the City or developed by the Consultant, sub-consultant, worker, or agent, in the event of loss, impairment, or destruction. Such coverage shall remain in force until the final plans as well as all related materials have been delivered by the consultant to, and

accepted by, the City. Unless otherwise provided, Valuable Papers and Records Insurance shall provide coverage on an “individual occurrence” basis with limits in the amount of one hundred and fifty thousand dollars (\$150,000) when the insured items are in the Consultant’s possession, and in the amount of forty thousand dollars (\$40,000) regardless of the physical location of the insured items.

F. Umbrella Liability:

1. \$1,000,000 Each Event Limit
2. \$1,000,000 General Aggregate Limit
3. **CONFLICT OF INTEREST:** The Consultant shall disclose in writing to the City any actual or potential conflicts of interest or any appearance of a conflict of interest by the Consultant, its employees or agents, or its subconsultants, if any.
4. **PERSONNEL REQUIREMENTS AND CONDITIONS:** The Consultant shall employ only qualified personnel with appropriate and valid licensure, to the extent a license is required for the work performed. The City shall have the right to approve or disapprove key personnel assigned to administer activities related to the Contract.

Except with the approval of the City, during the life of the Contract, the Consultant shall not employ:

1. Any City employees who are directly involved with the awarding, administration, monitoring, or performance of the Contract or any project(s) that are the subjects of the Contract.
2. Any person so involved within one (1) year of termination of employment with the City.

The Consultant warrants that no company or person has been employed or retained, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that no company or person has been paid or has a contract with the Consultant to be paid, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this warranty, the City shall have the right to annul the Contract, without liability to the City, and to regain all costs incurred by the City in the performance of the Contract.

The City reserves the right to require removal of any person employed by a Consultant, from work related to the Contract, for misconduct, incompetence, or negligence as determined by the City, in the due and proper performance of Consultant’s duties, or for neglecting or refusing to comply with the requirements of the Contract.

5. **PERFORMANCE:** Consultant warrants that performance of Work will conform to the requirements of this Contract. Contractor shall use that degree of ordinary care and reasonable diligence that an experienced and qualified provider of similar services would use acting in like circumstances and experience in such matters and in accordance with the standards, practices and procedures established by Contractor for its own business.
6. **RESPONSIBILITY FOR SUPERVISION:** The Consultant shall assume primary responsibility for general supervision of Consultant employees and their sub-consultants for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Contract. The Consultant shall be responsible to the City for all acts or omissions of its subconsultants and any other person performing work under this Contract.
7. **INSPECTION OF WORK:** The City shall, at all times, have access to the Consultant's work for the purposes of inspection, accounting, and auditing, and the Consultant shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Consultant shall permit the City or representative for the City the opportunity to inspect any plans, surveys, reports, or other materials prepared or undertaken by the Consultant pursuant to the Contract, as well as any preparatory work, work-in-progress, or completed work at a field site, where applicable.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the City.

8. **REVIEWS AND ACCEPTANCES:** All preliminary and detailed plans, specifications, surveys, reports, estimates or other documents prepared by the Consultant, shall be subject to review and endorsement by the City.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Contract. Informal reviews, conducted by the City will be performed as deemed necessary. The Consultant shall respond to all official comments regardless of their source. The Consultant shall supply the City with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Consultant of their professional obligation to correct any defects or errors in their work at their own expense.

9. **PUBLIC RELATIONS:** Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Consultant will endeavor to maintain good relations with the public. Personnel employed by or representing the Consultant shall conduct themselves with propriety.
10. **ACKNOWLEDGEMENTS:** Acknowledgment of the City's support must be included in any and all publications, renderings and project publicity, including audio/visual materials

developed under this Contract.

11. APPEARANCES:

- A. Hearings and Conferences:** The Consultant shall provide services required by the City and necessary for furtherance of any work covered under the Contract. These services shall include appropriate representation at conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Contract.

The Consultant shall perform any liaison that the City deems necessary for the furtherance of the work and participate in conferences with the City, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Contract.

The Consultant further agrees to participate in meetings with the City and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Contract.

The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract.

- B. Appearance as Witness:** If and when required by the City, the Consultant, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related contract, on behalf of the City. The Consultant shall be equitably paid, to the extent permitted by law, for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract.

- 12. PAYMENT PROCEDURES:** The City shall pay, or cause to be paid, to the Consultant or the Consultant's legal representative payments in accordance with the Contract. All payments will be made in reliance upon the accuracy of all representations made by the Consultant, whether in invoices, progress reports, emails, or other proof of work. When applicable, for the type of payment specified in the Contract, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Contract number. When relevant, the invoice shall further be broken down in detail between projects.

No approval given or payment made under the Contract, shall be conclusive evidence of the performance of the Contract, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The City agrees to pay the Consultant and the Consultant agrees to accept, as full compensation, for performance of all services rendered and expenses incurred, the fee specified in the Contract.

Upon completion of all services covered under the Contract and payment of the agreed upon fee,

the Contract with its mutual obligations shall end.

13. DUTY TO INFORM CITY OF CONTRACT DOCUMENT ERRORS: If Consultant knows, or has reasonable cause to believe, that a clearly identifiable error or omission exists in the Contract Documents, including but not limited to unit prices and rate calculations, Consultant shall immediately give the City written notice thereof. Consultant shall not cause or permit any Work to be conducted which may relate to the error or omission without first receiving written notice by the City that City representatives understand the possible error or omission and have approved of modifications to the Contract Documents or that Consultant may proceed without any modification being made to Contract Documents.

14. NON-APPROPRIATION: The obligations of the City under this Contract are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Contract, the Contract shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Contract shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. Contract. The decision whether or not to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Consultant as soon as practicable of any non-appropriation, and Contract Consultant shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

15. CHANGES AND AMENDMENTS: No changes or amendments to the Work of the Contract shall be effective unless documented in writing and signed by authorized representatives of the City and the Consultant.

16. EXTENSION OF TIME: The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Consultant for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Contract. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the City may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Consultant and without the fault or negligence of the Consultant.

17. PUBLIC HEALTH EMERGENCY:

A. Compliance with Mandates and Guidance: The Consultant is advised that public health emergencies—meaning public health emergencies, as declared by the City, the State of Vermont, or the Federal Government—may introduce significant uncertainty into the project. The Consultant must comply with all local, state, federal orders, directives, regulations, guidance, advisories during a public health emergency.

B. City Liability Relating to Potential Delays: If a public health emergency is declared, the City will not be responsible for any delays related to the sequence of operations or any

expenses or losses incurred as a result of any delays. Any delays related to a public health emergency will be excusable, but will not be compensable.

18. FORCE MAJEURE: Neither Party to this Contract shall be liable to the other for any failure or delay of performance of any obligation under this Contract to the extent the failure or delay is caused by acts of God, public health emergencies, epidemics, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control (“Force Majeure”). To assert Force Majeure, the nonperforming party must prove that a) it made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, b) diligently pursued performance of its obligations, c) substantially fulfilled all obligations that could be fulfilled, and d) timely notified the other part of the likelihood or actual occurrence of a Force Majeure event. If any such causes for delay are of such magnitude as to prevent the complete performance of the Contract within two (2) years of the originally scheduled completion date, either Party may by written notice request to amend or terminate the Contract. The suspension of any obligations under this section shall not cause the term of this Lease to be extended and shall not affect any rights accrued under this Lease prior to the occurrence of the force majeure. The Party giving notice of the force majeure shall also give notice of its cessation.

19. PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The City may, in writing, and without invalidating the Contract, require changes resulting from revision or abandonment of work already performed by the Consultant or changes in the scope of work.

The value of such changes, to the extent not reflected in other payments to the Consultant, shall be incorporated in an amendment and be determined by mutual agreement. Any adjustments of this nature shall be executed under the appropriate fee established in the Contract, based on the adjusted quantity of work.

No changes for which additional fee payment is claimed shall be made unless pursuant to a written order from the City, and no claim for payment shall be valid unless so ordered.

The Consultant agrees to maintain complete and accurate records, in a form satisfactory to the City for all time devoted directly to same by Consultant employees. The City reserves the right to audit the records of the Consultant related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Contract. When changes are so ordered, no additional work shall be performed by the Consultant until a Contract amendment has been fully executed, unless written notice to proceed is issued by the City. Any claim for extension of time that may be necessitated as a result of extra work or additional services and changes shall be given consideration and evaluated insofar as it directly relates to the change.

20. FAILURE TO COMPLY WITH TIME SCHEDULE: If the City is dissatisfied because of slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of the Work, the City shall give the Consultant written notice in which the City shall specify in detail the cause of dissatisfaction. Should the Consultant fail or refuse to remedy the matters complained of within five days after the written notice is received by the Contractor, the City shall have the right to take control of the Work

and either make good the deficiencies of the Consultant itself or direct the activities of the Consultant in doing so, employing such additional help as the City deems advisable. In such events, the City shall be entitled to collect from the Consultant any expenses in completing the Work. In addition, the City may withhold from the amount payable to the Consultant an amount approximately equal to any interest lost or charges incurred by the City for each calendar day that the Consultant is in default after the time of completion stipulated in the Contract Documents.

- 21. RETURN OF MATERIALS:** Consultant agrees that at the expiration or termination of this Contract, it shall return to City all materials provided to it during its engagement on behalf of City.
- 22. ACCEPTANCE OF FINAL PAYMENT; RELEASE:** Consultant's acceptance of the final payment shall be a release in full of all claims against the City or its agents arising out of or by reason of the Work. Any payment, however, final or otherwise, shall not release the Consultant or their sureties from any obligations under the Contract Documents or any performance or payment bond.
- 23. OWNERSHIP OF THE WORK:** The Consultant agrees that the ownership of all studies, data sheets, survey notes, estimates, specifications, proposals, reports, calculations, Electronic Data Media (EDM), and other material prepared or collected by the Consultant, hereafter referred to as "instruments of professional service," shall become the property of the City as they are prepared and/or developed during execution of the Contract. The Consultant agrees to allow the City access to all "instruments of professional service" at any time. The Consultant shall not copyright any material originating under the Contract without prior written approval of the City. No publications or publicity of the work, in part or in total, shall be made without the express written agreement of the City, except that Consultant may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
- 24. PROPRIETARY RIGHTS:** The Parties under the Contract hereby mutually agree that, if patentable discoveries or inventions should result from work performed by the Consultants under the Contract, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. The Consultant, however, agrees to and does hereby grant to the City an irrevocable, nonexclusive, non-transferable, and royalty-free license to the manufacture, use, and disposition of any discovery or invention that may be developed as a part of the Work under the Contract.
- 25. PUBLIC RECORDS:** The Consultant understands that any and all records related to and acquired by the City, whether electronic, paper, or otherwise recorded, are subject to the Vermont Public Records Act and that the determination of how those records must be handled is solely within the purview of City. The Consultant shall identify all records that it considers to be trade secrets as that term is defined by subsection 317(c)(9) of the Vermont Public Records Act and shall also identify all other records it considers to be exempt under the Act. It is not sufficient to merely state generally that the record is proprietary or a trade secret or is otherwise exempt. Particular records, pages or section which are believed to be exempt must

be specifically identified as such and must be separated from other records with a convincing explanation and rationale sufficient to justify each exemption from release consistent with Section 317 of Title 1 of the Vermont Statutes Annotated.

- 26. RECORDS RETENTION AND ACCESS:** The Consultant agrees to retain, in its files, and to produce to the City—within the time periods requested—all books, documents, Electronic Data Media (EDM), accounting records, and other records produced or acquired by the consultant in the performance of this Contract which are related to the City, at any time during this Contract and for a period of at least three (3) years after its completion or termination. In addition, if any audit, claim, or litigation is commenced before the expiration of that three (3) year period, the records shall be retained until all related audits, claims, or litigation are resolved. The Consultant further agrees that the City shall have access to all the above information for the purpose of review and audit during the Contract period and anytime within the aforementioned retention period. Copies of all of the above referenced information shall be provided to the City, if requested, in the format in which the records were obtained, created, or maintained, such that their original use and purpose can be achieved. Consultant, sub-consultants, or their representatives performing work related to the Contract, are responsible to ensure that all data and information created or stored on EDM is secure and can be duplicated and used if the EDM mechanism is subjected to power outage, obsolescence, or damage.
- 27. CONTRACT DISPUTES:** In the event of a dispute between the parties to this Contract each party will continue to perform its obligations unless the Contract is terminated in accordance with these terms.
- 28. SETTLEMENTS OF MISUNDERSTANDINGS:** To avoid misunderstandings and litigation, it is mutually agreed by all Parties that the Director of Police Transformation shall act as referee on all questions arising under the terms of the Contract and that the decision of the Director of Police Transformation in such cases shall be binding upon both Parties.
- 29. CITY'S OPTION TO TERMINATE:** The Contract may be terminated in accordance with the following provisions, which are not exclusive:

 - A. Termination for Convenience:** At any time prior to completion of services specified under the Contract, the City may terminate the Contract for any reason by submitting written notice via certified or registered mail to the Consultant, not less than fifteen (15) days prior to the termination date, of its intention to do so. If the termination is for the City's convenience, payment to the Consultant will be made promptly for the amount of any fees earned to the date of the notice of termination and costs of materials obtained in preparation for Work but not yet delivered, less any payments previously made. However, if a notice of termination is given to a Consultant prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Consultant will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the City's approval. The Consultant shall make no claim for additional compensation against the City by reason of such

termination.

B. Termination for Cause:

- i. Breach: Consultant shall be in default if Consultant fails in any manner to fully perform and carry out each and all conditions of this Contract, including, but not limited to, Consultant's failure to begin or to prosecute the Work in a timely manner or to make progress as to endanger performance of this Contract; failure to supply a sufficient number of properly skilled employees or a sufficient quantity of materials of proper quality; failure to perform the Work unsatisfactorily as determined by the City; failure to neglect or refuse to remove materials; or in the event of a breach of warranty with respect to any materials, workmanship, or performance guaranty. Contractor will not be in default for any excusable delays as provided in Sections 19-21.

The City may give Consultant written notice of such default. If Consultant does not cure such default or provide a plan to cure such default which is acceptable to the City within the time permitted by the City, then the City may terminate this contract for cause.

- ii. Proceedings for Relief of Debtors: If a federal or state proceeding for relief of debtors is undertaken by or against Consultant, or if Consultant makes an assignment for the benefit of creditors, then the City may immediately terminate this contract.
- iii. Dishonest Conduct: If Consultant engages in any dishonest conduct related to the performance or administration of this Contract then the City may immediately terminate this contract.
- iv. Cover: In the event the City terminates this contract as provided in this section, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Consultant shall be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services, interest, or other charges the City incurs to cover.
- v. Rights and Remedies Not Exclusive: The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

30. GENERAL COMPLIANCE WITH LAWS: The Consultant and any subconsultant approved under this Contract shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance, the Non-Outsourcing Ordinance, and the Union-Deterrence Ordinance and shall provide the required certifications attesting to compliance with these ordinances (see attached ordinances and certifications).

Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties. If, for any reason, a provision in the Contract is unenforceable or invalid, that provision shall be deemed severed from the Contract, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Contract.

31. CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Contract, the Consultant will not discriminate against any employee or applicant for employment because of religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status, or genetic information. Consultant, and any subconsultants, shall comply with any Federal, State, or local law, statute, regulation, Executive Order, or rule that applies to it or the services to be provided under this contract concerning equal employment, fair employment practices, affirmative action, or prohibitions on discrimination or harassment in employment.

32. CHILD SUPPORT PAYMENTS: By signing the Contract, the Consultant certifies, as of the date of signing the Contract, that the Consultant (a) is not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Consultant is a sole proprietorship, the Consultant's statement applies only to the proprietor. If the Consultant is a partnership, the Consultant's statement applies to all general partners with a permanent residence in Vermont. If the Consultant is a corporation, this provision does not apply.

33. TAX REQUIREMENTS: By signing the Contract, the Consultant certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, that the Consultant is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Contract.

34. INDEMNIFICATION:

A. Indemnification by Consultant: Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, consultant undertakes and agrees to defend, indemnify and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Consultant or its subconsultants of any tier.

- B. Notice of Claims & City's Right to Participate: If the City, its officers, agents, or employees are notified of any claims asserted against it to which this indemnification provision may apply, the City shall immediately thereafter notify the Consultant in writing that a claim to which the indemnification provision may apply has been filed. Consultant shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The City retains the right to participate, at its own expense, in the defense of any claim, and to approve all proposed settlements of claims to which this provision applies.
- C. City's Rights and Remedies: Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States and the State of Vermont.
- D. No Indemnification by City: Under no conditions shall the City be obligated to indemnify the Consultant or any third party, nor shall the City be otherwise liable for expenses or reimbursement including attorney's fees, collection costs, or other costs of the Consultant or any third party.

35. NO GIFTS OR GRATUITIES: The Consultant shall not make any payment or gift or donation of substantial value to any elected official, officer, employee, or agent of the City during the term of this Contract.

36. ASSIGNMENT: Consultant shall not sublet or assign this Work, or any part of it, without the written consent of the City. If any subconsultant is approved, Consultant shall be responsible and liable for all acts or omissions of that subconsultant for any Work performed. If any subconsultant is approved, Consultant shall be responsible to ensure that the subconsultant is paid as agreed and that no lien is placed on any City property.

37. TRANSFERS, SUBLETTING, ETC: The Consultant shall not assign, sublet, or transfer any interest in the work, covered by this Contract, without prior written consent of the City, and further, if any sub-consultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the City. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Consultant of responsibility for the performance of that portion of the work so transferred. The form of the sub-consultant's contract shall be as developed by the Consultant and approved by the City. The Consultant shall ensure that insurance coverage exists for any operations to be performed by any sub-consultant as specified in the insurance requirements section of this Contract.

The services of the Consultant, to be performed under the Contract, shall not be transferred without written authorization of the City. Any authorized sub-contracts shall contain all of the same provisions contained in and attached to the original Contract with the City.

38. CONTINUING OBLIGATIONS: The Consultant agrees that if because of death, disability, or other occurrences, it becomes impossible to effectively perform its services in compliance with the Contract, neither the Consultant nor its surviving members shall be relieved of their

obligations to complete the Contract unless the City agrees to terminate the Contract because it determines that the Consultant is unable to satisfactorily execute the Contract.

39. INTERPRETATION & IMPLEMENTATION: Provisions of the Contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both Parties.

40. ARM'S LENGTH: This Contract has been negotiated at arm's length, and any ambiguity in any of its terms or provisions shall be interpreted in accordance with the intent of the Parties and not against or in favor of either the City or Consultant.

41. RELATIONSHIP: The Consultant is an independent consultant and shall act in an independent capacity and not as officers or employees of the City. To that end, the Consultant shall determine the method, details, and means of performing the work, but will comply with all legal requirements in doing so. The Consultant shall provide its own tools, materials, or equipment. The Parties agree that neither the Consultant nor its principal(s) or employees are entitled to any employee benefits from the City. Consultant understands and agrees that it and its principal(s) or employees have no right to claim any benefits under the Burlington Employee Retirement System, the City's worker's compensation benefits, health insurance, dental insurance, life insurance, or any other employee benefit plan offered by the City. The Consultant agrees to execute any certifications or other documents and provide any certificates of insurance required by the City and understands that this Contract is conditioned on its doing so, if requested.

The Consultant understands and agrees that it is responsible for the payment of all taxes on the above sums and that the City will not withhold or pay for Social Security, Medicare, or other taxes or benefits or be responsible for any unemployment benefits.

42. CHOICE OF LAW: Vermont law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision rendered null and void by operation of this provision shall not invalidate the remainder of this Contract to the extent capable of execution.

43. JURISDICTION: All suits or actions related to this Contract shall be filed and proceedings held in the State of Vermont.

44. BINDING EFFECT AND CONTINUITY: This Contract shall be binding upon and shall inure to the benefit of the Parties, their' respective heirs, successors, representatives, and assigns. If a dispute arises between the Parties, each Party will continue to perform its obligations under this Contract during the resolution of the dispute, until the Contract is terminated in accordance with its terms.

45. SEVERABILITY: The invalidity or unenforceability of any provision of this Contract, shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

- 46. ENTIRE CONTRACT & AGREEMENT:** This Contract constitutes the entire Contract, agreement, and understanding of the Parties with respect to the subject matter of this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.
- 47. APPENDICES:** The City may attach to these conditions appendices containing various forms and typical sample sheets for guidance and assistance to the Consultant in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the City as occasions may require. It is the responsibility of the Consultant to ensure that they have the latest versions applicable to the Contract.
- 48. NO THIRD PARTY BENEFICIARIES:** This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.
- 49. WAIVER:** A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.



ADDITIONAL REMARKS SCHEDULE

AGENCY MARSH USA INC.		NAMED INSURED THE CNA CORPORATION ATTN: MS. BETH BOROWSKI 3003 WASHINGTON, BLVD ARLINGTON, VA 22201	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance**

PROFESSIONAL ERRORS & OMISSIONS/ PRIVACY & NETWORK (CYBER LIABILITY)
 POLICY NUMBER: V20446200401
 CARRIER: BEAZLEY INSURANCE COMPANY, INC.
 EFFECTIVE DATE: 10/01/2020
 EXPIRATION DATE: 10/01/2021
 LIMITS: PROFESSIONAL ERRORS & OMISSIONS AND PRIVACY & NETWORK (CYBER LIABILITY) HAVE A SHARED LIMIT OF \$10,000,000.
 SIR VALUE: \$50,000

ARTICLE VI. LIVABLE WAGES¹

21-80 Findings and purpose.

In enacting this article, the city council states the following findings and purposes:

- (a) Income from full-time work should be sufficient to meet an individual's basic needs;
- (b) The City of Burlington is committed to ensuring that its employees have an opportunity for a decent quality of life and are compensated such that they are not dependent on public assistance to meet their basic needs;
- (c) The City of Burlington is committed, through its contracts with vendors and provision of financial assistance, to encourage the private sector to pay its employees a livable wage and contribute to employee health care benefits;
- (d) The creation of jobs that pay livable wages promotes the prosperity and general welfare of the City of Burlington and its residents, increases consumer spending with local businesses, improves the economic welfare and security of affected employees and reduces expenditures for public assistance;
- (e) It is the intention of the city council in passing this article to provide a minimum level of compensation for employees of the City of Burlington and employees of entities that enter into service contracts or receive financial assistance from the City of Burlington.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-81 Definitions.

As used in this article, the following terms shall be defined as follows:

- (a) *Contractor or vendor* is a person or entity that has a service contract with the City of Burlington where the total amount of the service contract or service contracts exceeds fifteen thousand dollars (\$15,000.00) for any twelve (12) month period, including any subcontractors of such contractor or vendor.
- (b) *Grantee* is a person or entity that is the recipient of financial assistance from the City of Burlington in the form of grants, including any contractors or subgrantees of the grantee, that exceed fifteen thousand dollars (\$15,000.00) for any twelve (12) month period.

(c) *Covered employer* means the City of Burlington, a contractor or vendor or a grantee as defined above. The primary contractor, vendor, or grantee shall be responsible for the compliance of each of its subcontractors (or of each subgrantee) that is a covered employer.

(d) *Covered employee* means an "employee" as defined below, who is employed by a "covered employer," subject to the following:

(1) An employee who is employed by a contractor or vendor is a "covered employee" during the period of time he or she expends on furnishing services under a service contract with the City of Burlington, notwithstanding that the employee may be a temporary or seasonal employee;

(2) An employee who is employed by a grantee who expends at least half of his or her time on activities funded by the City of Burlington is a "covered employee."

(e) *Designated accountability monitor* shall mean a nonprofit corporation which has established and maintains valid nonprofit status under Section [501\(c\)\(3\)](#) of the United States Internal Revenue Code of 1986, as amended, and that is independent of the parties it is monitoring.

(f) *Employee* means a person who is employed on a full-time or part-time regular basis. In addition, commencing with the next fiscal year, a seasonal or temporary employee of the City of Burlington who works ten (10) or more hours per week and has been employed by the City of Burlington for a period of four (4) years shall be considered a covered employee commencing in the fifth year of employment. "Employee" shall not refer to volunteers working without pay or for a nominal stipend, persons working in an approved apprenticeship program, persons who are hired for a prescribed period of six (6) months or less to fulfill the requirements to obtain a professional license as an attorney, persons who are hired through youth employment programs or student workers or interns participating in established educational internship programs.

(g) *Employer-assisted health care* means health care benefits provided by employers for employees (or employees and their dependents) at the employer's cost or at an employer contribution towards the purchase of such health care benefits, provided that the employer cost or contribution consists of at least one dollar and twenty cents (\$1.20) per hour. (Said amount shall be adjusted every two (2) years for inflation, by the chief administrative officer of the city.)

(h) *Livable wage* has the meaning set forth in Section [21-82](#).

(i) *Retaliation* shall mean the denial of any right guaranteed under this article, and any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action against an employee for exercising any right guaranteed under this article. Retaliation shall also include coercion, intimidation, threat, harassment, or interference in any manner with any investigation, proceeding, or hearing under this article.

(j) *Service contract* means a contract primarily for the furnishing of services to the City of Burlington (as opposed to the purchasing or leasing of goods or property). A contract involving the furnishing of financial products, insurance products, or software, even if that contract also includes some support or other services related to the provision of the products, shall not be considered a service contract.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-82 Livable wages required.

(a) Every covered employer shall pay each and every covered employee at least a livable wage no less than:

(1) For a covered employer that provides employer assisted health care, the livable wage shall be at least thirteen dollars and ninety-four cents (\$13.94) per hour on the effective date of the amendments to this article.

(2) For a covered employer that does not provide employer assisted health care, the livable wage shall be at least fifteen dollars and eighty-three cents (\$15.83) per hour on the effective date of the amendments to this article.

(3) Covered employees whose wage compensation consists of more or other than hourly wages, including, but not limited to, tips, commissions, flat fees or bonuses, shall be paid so that the total of all wage compensation will at least equal the livable wage as established under this article.

(b) The amount of the livable wage established in this section shall be adjusted by the chief administrative officer of the city as of July 1 of each year based upon a report of the Joint Fiscal Office of the State of Vermont that describes the basic needs budget for a single person but utilizes a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with the moderate cost food plan. Should there be no such report from the Joint Fiscal Office, the chief administrative officer shall obtain and utilize a basic needs budget that applies a similar methodology. The livable wage rates derived from utilizing a model of two (2) adults residing in a two (2) bedroom living unit in an urban area with a moderate cost food plan shall not become effective until rates meet or exceed the 2010 posted livable wage rates. Prior to May 1 preceding any such adjustment and prior to

May 1 of each calendar year thereafter, the chief administrative officer will provide public notice of this adjustment by posting a written notice in a prominent place in City Hall by sending written notice to the city council and, in the case of covered employers that have requested individual notice and provided contact information to the chief administrative officer, by notice to each such covered employer. However, once a livable wage is applied to an individual employee, no reduction in that employee's pay rate is permissible due to this annual adjustment.

(c) Covered employers shall provide at least twelve (12) compensated days off per year for full-time covered employees, and a proportionate amount for part-time covered employees, for sick leave, vacation, personal, or combined time off leave.

(Ord. of 11-19-01; Ord. of 5-2-11; Ord. of 6-13-11; Ord. of 10-21-13)

21-83 Applicability.

(a) This article shall apply to any service contract or grant, as provided by this article that is awarded or entered into after the effective date of the article. After the effective date of the article, entering into any agreement or an extension, renewal or amendment of any contract or grant as defined herein shall be subject to compliance with this article.

(b) The requirements of this article shall apply during the term of any service contract subject to the article. Covered employers who receive grants shall comply with this article during the period of time the funds awarded by the City of Burlington are being expended by the covered employer.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-84 Enforcement.

(a) Each service contract or grant covered by this article shall contain provisions requiring that the covered employer or grantee submit a written certification, under oath, during each year during the term of the service contract or grant, that the covered employer or grantee (including all of its subcontractors and subgrantees, if any) is in compliance with this article. The failure of a contract to contain such provisions does not excuse a covered employer from its obligations under this article. The covered employer shall agree to post a notice regarding the applicability of this section in any workplace or other location where employees or other persons contracted for employment are working. The covered employer shall agree to provide payroll records or other documentation for itself and any subcontractors or subgrantees, as deemed necessary by the chief

administrative officer of the City of Burlington, within ten (10) business days from receipt of the City of Burlington's request.

(b) The chief administrative officer of the City of Burlington may require that a covered employer submit proof of compliance with this article at any time, including but not limited to:

- (1) Verification of an individual employee's compensation;
- (2) Production of payroll, health insurance enrollment records, or other relevant documentation; or
- (3) Evidence of proper posting of notice.

If a covered employer is not able to provide that information within ten (10) business days of the request, the chief administrative officer may turn the matter over to the city attorney's office for further enforcement proceedings.

(c) The City of Burlington shall appoint a designated accountability monitor that shall have the authority:

- (1) To inform and educate employees of all applicable provisions of this article and other applicable laws, codes, and regulations;
- (2) To create a telephonic and electronic accountability system under this article that shall be available at all times to receive complaints under this article;
- (3) To establish and implement a system for processing employees' complaints under this article, including a system for investigating complaints and determining their initial credibility; and
- (4) To refer credible complaints to the city attorney's office for potential enforcement action under this article.

The designated accountability monitor shall forward to the City of Burlington all credible complaints of violations within ten (10) days of their receipt.

(d) Any covered employee who believes his or her covered employer is not complying with this article may file a complaint in writing with the city attorney's office within one (1) year after the alleged violation. The city attorney's office shall conduct an investigation of the complaint, during which it may require from the covered employer evidence such as may be required to determine whether the covered employer has been compliant, and shall make a finding of compliance or noncompliance within a reasonable time after receiving the

complaint. Prior to ordering any penalty provided in subsection (e), (f), or (g) of this section, the city attorney's office shall give notice to the covered employer. The covered employer may request a hearing within thirty (30) days of receipt of such notice. The hearing shall be conducted by a hearing officer appointed by the city attorney's office, who shall affirm or reverse the finding or the penalty based upon evidence presented by the city attorney's office and the covered employer.

(e) The City of Burlington shall have the right to modify, terminate and/or seek specific performance of any contract or grant with a covered employer from any court of competent jurisdiction, if the covered employer has not complied with this article.

(f) Any covered employer who violates this article may be barred from receiving a contract or grant from the city for a period up to two (2) years from the date of the finding of violation.

(g) A violation of this article shall be a civil offense subject to a civil penalty of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any covered employee is not compensated as required by this article shall constitute a separate violation.

(h) If a complaint is received that implicates any City of Burlington employee in a possible violation of this article, that complaint will be handled through the City's personnel procedures, not through the process outlined in this article.

(i) Any covered employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the covered employer within two (2) years after discovery of the alleged violation. The court may award any covered employee who files suit pursuant to this section, as to the relevant period of time, the following:

(1) The difference between the livable wage required under this article and the amount actually paid to the covered employee;

(2) Equitable payment for any compensated days off that were unlawfully denied or were not properly compensated;

(3) Liquidated damages in an amount equal to the amount of back wages and/or compensated days off unlawfully withheld or fifty dollars (\$50.00) for each employee or person whose rights under this article were violated for each day that the violation occurred or continued, whichever is greater;

(4) Reinstatement in employment and/or injunctive relief; and

(5) Reasonable attorneys' fees and costs.

(j) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article. No person shall engage in retaliation against an employee or threaten to do so because such employee has exercised rights or is planning to exercise rights protected under this article or has cooperated in any investigation conducted pursuant to this article.

(Ord. of 11-19-01; Ord. of 2-17-04; Ord. of 5-2-11; Ord. of 10-21-13)

21-85 Other provisions.

(a) No covered employer shall reduce the compensation, wages, fringe benefits or leave available to any covered employee in order to pay the livable wage required by this article. Any action in violation of this subsection shall be deemed a violation of this article subject to the remedies of Section [21-84](#).

(b) No covered employer with a current contract, as of the effective date of this provision, with the City of Burlington for the use of property located at the Burlington International Airport may reduce, during the term of that contract, the wages of a covered employee below the livable wage as a result of amendments to this article.

(c) Where pursuant to a contract for services with the city, the contractor or subcontractor incurs a contractual obligation to pay its employees certain wage rates, in no case except as stated in subsection (d) of this section, shall the wage rates paid pursuant to that contract be less than the minimum livable wage paid pursuant to this article.

(d) Notwithstanding subsection (c) of this section, where employees are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and a collective bargaining labor agreement is in effect governing the terms and conditions of employment of those employees, this chapter shall not apply to those employees, and the collective bargaining labor agreement shall control.

(e) Covered employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Earned Income Tax Credit under federal and state law.

(f) The chief administrative officer of the city shall have the authority to promulgate rules as necessary to administer the provisions of this article, which shall become effective upon approval by the city council.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-86 Exemptions.

An exemption from any requirement of this article may be requested for a period not to exceed two (2) years:

- (a) By a covered employer where payment of the livable wage would cause substantial economic hardship;
and
- (b) By the City of Burlington where application of this article to a particular contract or grant is found to violate specific state or federal statutory, regulatory or constitutional provisions or where granting the exemption would be in the best interests of the City.

A covered employer or grantee granted an exemption under this section may reapply for an exemption upon the expiration of the exemption. Requests for exemption may be granted by majority vote of the city council. All requests for exemption shall be submitted to the chief administrative officer. The finance committee of the City of Burlington shall first consider such request and make a recommendation to the city council. The decision of the city council shall be final.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-87 Severability.

If any part or parts or application of any part of this article is held invalid, such holding shall not affect the validity of the remaining parts of this article.

(Ord. of 11-19-01; Ord. of 10-21-13)

21-88 Annual reporting.

On or before April 15 of each year, the city attorney's office shall submit a report to the city council that provides the following information:

- (a) A list of all covered employers broken down by department;
- (b) A list of all covered employers whose service contract did not contain the language required by this article;
and
- (c) All complaints filed and investigated by the city attorney's office and the results of such investigation.

(Ord. of 10-21-13)

21-89 Effective date.

The amendments to this article shall take effect on January 1, 2014, and shall not be retroactively applied.

(Ord. of 10-21-13)

Certification of Compliance with the City of Burlington's Livable Wage Ordinance

I, _____, on behalf of _____ ("the Contractor") in connection with a contract for _____ services that we provide to the City, hereby certify under oath that the Contractor (and any subcontractors under this contract) is and will remain in compliance with the City of Burlington's Livable Wage Ordinance, B.C.O. 21-80 et seq., and that

(1) as a condition of entering into this contract or grant, we confirm that all covered employees as defined by Burlington's Livable Wage Ordinance (including the covered employees of subcontractors) shall be paid a livable wage (as determined, or adjusted, annually by the City of Burlington's chief administrative officer) and provided appropriate time off for the term of the contract;

(2) a notice regarding the applicability of the Livable Wage Ordinance shall be posted in the workplace(s) or other location(s) where covered employees work;

(3) we will provide verification of an employee's compensation, produce payroll or health insurance enrollment records or provide other relevant documentation (including that of any subcontractor), as deemed necessary by the chief administrative officer, within ten (10) business days from receipt of a request by the City;

(4) we will cooperate in any investigation conducted by the City of Burlington's City Attorney's office pursuant to this ordinance; and

(5) we will not retaliate (nor allow any subcontractor to retaliate) against an employee or other person because an employee has exercised rights or the person has cooperated in an investigation conducted pursuant to this ordinance.

Date _____ By: Contractor _____

Subscribed and sworn to before me:

Date _____ Notary _____

ARTICLE VII. OUTSOURCING

21-90 Policy.

It is the policy of the City of Burlington to let service contracts to contractors, subcontractors and vendors who perform work in the United States.

(Ord. of 11-21-05/12-21-05)

21-91 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any city funds and the total amount of the contract is fifty thousand dollars (\$50,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Outsourcing.* The assigning or reassigning, directly, or indirectly through subcontracting, of services under a government funded project to workers performing the work outside of the United States.

(Ord. of 11-21-05/12-21-05)

21-92 Implementation.

(a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who is outsourcing, or causing the work to be performed outside of the United States or Canada.

(b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that the services provided under the contract will be performed in the United States or Canada.

(Ord. of 11-21-05/12-21-05)

21-93 Exemption.

An exemption from requirements of this article may be authorized by the chief administrative officer based upon a determination that the services to be performed for the government funded project are not available in the United States or Canada at a reasonable cost. Any such exemption decision by the chief administrative officer

shall be reported to the board of finance in writing within five (5) days. The board of finance may, if it should vote to do so, override the exemption decision if such vote occurs within fourteen (14) days of the date of the chief administrative officer's communication to such board.

(Ord. of 11-21-05/12-21-05)

21-94 Enforcement.

(a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or outsources work on a government funded project shall be deemed to be in violation of this article.

(b) A violation of this article shall be a civil offense subject to a civil penalty of from one hundred dollars (\$100.00) to five hundred (\$500.00). All law enforcement officers and any other duly authorized municipal officials are authorized to issue a municipal complaint for a violation of this article. Each day any violation of any provision of this article shall continue shall constitute a separate violation.

(c) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 11-21-05/12-21-05)

21-95—21-99 Reserved.

Certification of Compliance with the City of Burlington's Outsourcing Ordinance

I, _____, on behalf of

_____ (Contractor) and in connection with the

_____ [project], hereby certify under oath that (1) Contractor shall comply with the City of Burlington's Outsourcing Ordinance (Ordinance §§ 21-90 – 21-93); (2) as a condition of entering into this contract or grant, Contractor confirms that the services provided under the above-referenced contract will be performed in the United States or Canada.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent

Subscribed and sworn to before me: _____
Notary

ARTICLE VIII. UNION DETERRENCE

21-100 Policy.

It is the policy of the City of Burlington to limit letting contracts to organizations that provide union deterrence services to other companies.

(Ord. of 3-27-06/4-26-06)

21-101 Definitions.

(a) *Contractor or vendor.* A person or entity that has a contract with the City of Burlington primarily for the furnishing of services (as opposed to the purchasing of goods), including any subcontractors of such contractor or vendor.

(b) *Government funded project.* Any contract for services which involves any City funds and the total amount of the contract is fifteen thousand dollars (\$15,000.00) or more. Burlington School Department contracts shall not be considered government funded projects under this article.

(c) *Union deterrence services.* Services provided by a contractor, subcontractor or vendor that are not restricted to advice concerning what activities by an employer are prohibited and permitted by applicable laws and regulations, but extend beyond such legal advice to encouraging an employer to do any of the following:

- 1) Hold captive audience, (i.e., mandatory) meetings with employees encouraging employees to vote against the union;
- 2) Have supervisors force workers to meet individually with them to discuss the union;
- 3) Imply to employees, whether through written or oral communication, that their employer may have to shut down or lay people off if the union wins the election;
- 4) Discipline or fire workers for union activity;
- 5) Train managers on how to dissuade employees from supporting the union.

(d) *Substantial portion of income.* For the purposes of this article, substantial portion of income shall mean greater than ten (10) percent of annual gross revenues or one hundred thousand dollars (\$100,000.00), whichever is less.

(Ord. of 3-27-06/4-26-06)

21-102 Implementation.

- (a) No contract for a government funded project shall be let to any contractor, subcontractor, or vendor who
- 1) Advises or has advised an employer to conduct any illegal activity in its dealings with a union.
 - 2) Advertises union deterrence services as specialty services;
 - 3) Earns a substantial portion of its income by providing union deterrence services to other companies in order to defeat union organizing efforts.
- (b) Prior to the commencement of work on a government funded project a contractor, subcontractor or vendor shall provide written certification that it has not advised the conduct of any illegal activity, it does not currently, nor will it over the life of the contract provide union deterrence services in violation of this article.

(Ord. of 3-27-06/4-26-06)

21-103 Enforcement.

- (a) Any contractor, subcontractor or vendor who files false or materially misleading information in connection with an application, certification or request for information pursuant to the provisions of this article or provided union deterrence services during the life of a contract for a government funded project shall be deemed to be in violation of this article.
- (b) The City of Burlington shall have the right to modify, terminate and or seek specific performance of any contract for a government funded project if the contractor, subcontractor or vendor has not complied with this article.

(Ord. of 3-27-06/4-26-06)

21-104—21-110 Reserved.

Certification of Compliance with the City of Burlington's
Union Deterrence Ordinance

I, _____, on behalf of _____
(Contractor) and in connection with _____ (City
contract/project/grant), hereby certify under oath that _____
(Contractor) has not advised the conduct of any illegal activity, and it does not currently, nor will
it over the life of the contract advertise or provide union deterrence services in violation of the
City's union deterrence ordinance.

Dated at _____, Vermont this ____ day of _____, 20__.

By: _____
Duly Authorized Agent